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— AA 624-00
VAR
Morrisette, Donald
0419
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MSA-5-1829-863



Post-it® Fax Note	7671	Date	1/12/01	# of pages	8
To	Lee Ann Chandler	From	M.K. FARRIN		
Co./Dept.	Gr. & L. Adm. Comm.	Co.			
Phone #	410 260 3477	Phone #	202 414 1285		
Fax #	410 974 5338	Fax #	202 414 1217		

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBERS V-26-93, V-27-93, V-28-93
V-29-93 and V-30-93

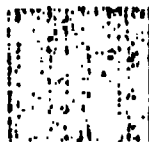
Re: ANNAPOLIS FEDERAL SAVINGS BANK,
ROBERT & MARGARET MARCHETTI, DOROTHEE MILLER, URVAN STERNFELT'S
AND GEORGE & FLORENCE THERIAULT

FIRST ASSESSMENT DISTRICT

DATE HEARD: MARCH 9, 1993

ORDERED BY: ROBERT C. WILCOX, ADMINISTRATIVE HEARING OFFICER

DATE FILED: MARCH 12, 1993



foundation of life in the Chesapeake has been institutionalized, its mission turned into sacrosanct official doctrine...

Laws and regulations need not be carved on stone tablets. They should be tempered with judgement and concern for human sensitivities...

Editorial: Baltimore Sun, August 11, 1992.

PLEADINGS

The applicants, Annapolis Federal Savings Bank (V-26-93), Robert & Margaret Marchetti (V-27-93), Dorothee Muller (V-28-93), Urvan Sternfels (V-29-93), George & Florence Theriault (V-30-93), are petitioning for a variance to allow greater impervious coverage and less buffer than required on properties located on both sides of Shipping Creek Lane, east of Overwood Way and north of Danforth Lane, Edgewater.

PUBLIC NOTIFICATION

At the hearing the Administrative Hearing Officer reviewed the file and ascertained that the case had been advertised in accordance with the provisions of the Code. William Lawton, Director of Planning for Landtech Corp; submitted an affidavit which states that the property had been posted for more than fourteen (14) days prior to the hearing.

FINDINGS & CONCLUSIONS

The applicants constitute the various owners of 15 residential building lots in the subdivision known as South River Landing located in Edgewater. Specifically, the property is shown as Lots 630, 640,

South River Landing is an approved subdivision development --

condominium regime. Eighteen lots remain unimproved, 15 of which are the subject of this application. All of the property is zoned R-5 residential.

The proposal calls for single-family dwellings to be built on the referenced 15 lots. This development will be consistent with the 66 lots which are already improved. The existing 66 dwellings have been built in the range of 4,000 to 5,000 square feet of floor area and all have impervious lot coverage approaching 40 percent. These lots were developed in accordance with the applicable zoning laws existing at the time of subdivision approval and construction. The Chesapeake Bay Critical Areas Law now prohibits, inter alia, lot development which exceeds 25 percent impervious coverage. Since this is a waterfront community, the subject lots are within 1,000 feet of tidal waters (South River) and are, therefore, limited by the 25 percent coverage rule. The development of South River Landing, previously approved, reflects a community development scheme with up-scale homes, driveways, walks and other impervious areas approaching 40 percent lot coverage. The applicant argues and the county agrees that the imposition of the 25 percent impervious lot coverage limitation for a subdivision is 80 percent complete would destroy the aesthetic and functional fabric of South River Landing without any significant benefit to the environment. This is so because of the unusual nature of the subdivision itself. None of the 84 lots in this subdivision are waterfront lots. The subdivision, according to Mr. Josephson, is unusual in that it consists of single-family residential dwellings

areas of common open space. Access to the water is restricted. The Chesapeake Bay Critical Areas Commission offered no objection to the variances in this case. Likewise, the environmental division of the Anne Arundel County Office of Planning and Zoning did not object to the requests provided certain conditions relating to required buffers and planting requirements, designed to mitigate the additional impervious coverage, were met. No one testified in opposition to the proposal.

CRITICAL AREAS

The subject property is located within 1000' of tidal waters. It is, therefore, subject to the Chesapeake Bay Critical Areas Law, Maryland Code, Natural Resources Article, Section 8-1808 et seq. The applicants have submitted the required environmental impact reports which were reviewed by the Office of Planning and Zoning and found to be acceptable. Based on the recommendations of the Office of Planning and Zoning, I find that:

1. The proposed dwellings with greater impervious coverage will not have an adverse impact on water quality resulting from pollutant discharge, and
2. All fish, wildlife and plant habitats have been identified, and the proposal will not threaten or diminish any of the habitats.

Based on the foregoing, I find and conclude that the variances requested in this case comport with the spirit and intent of the zoning law. South River Landing appears to be a well-designed residential

which maximize the natural environment by providing large area of common open space while restricting use of the boarding shoreline. The intent of the Chesapeake Bay Critical Areas Law can, in my opinion, be met, notwithstanding the increased impervious lot coverages here requested. The imposition of the more restrictive lot coverage requirements (25%), after three-quarters of the subdivision has been built, would constitute an obvious hardship and be counter productive since the aesthetic balance of the community would be upset without any countervailing environmental benefit. The variances in this case would not alter the essential characteristics of the neighborhood nor would they have an adverse affect on any of the adjoining properties. Indeed, the opposite is true. I find the variances to be the minimum necessary to afford relief.

Accordingly, the applicants shall be GRANTED the following variances:

1. Lot 630 - A variance to permit impervious lot coverage not exceeding 40%.
2. Lot 640 - A variance to permit impervious lot coverage not exceeding 40%.
3. Lot 650 - A variance to permit impervious lot coverage not exceeding 40%.
4. Lot 660 - A variance to permit impervious lot coverage not exceeding 40%.
5. Lot 670 - A variance to permit impervious lot coverage not exceeding 40%.
6. Lot 680 - A variance to permit impervious lot coverage not exceeding 40%.
7. Lot 700 - A variance to permit impervious lot coverage not exceeding 40%.
8. Lot 710 - A variance to permit impervious lot coverage not exceeding 40%.
9. Lot 720 - A variance to permit impervious lot coverage not exceeding 40%.
10. Lot 740 - A variance to permit impervious lot coverage not exceeding 40%.
11. Lot 750 - A variance to permit impervious lot coverage not exceeding 40%.

13. Lot 780 - exceeding 40%.
A variance to permit impervious lot coverage not
exceeding 40%.
14. Lot 790 - A variance to permit impervious lot coverage not
exceeding 40%.
15. Lot 730 - A variance to permit impervious lot coverage not
exceeding 43%.

The foregoing variances are subject to the conditions listed in the Order.

ORDER

PURSUANT to the application of Annapolis Federal Savings Bank (V-26-93), Robert & Margaret Marchetti (V-27-93), Dorothea Miller (V-28-93), Urvan Sternfels (V-29-93), George & Florence Theriault (V-30-93), petitioning for a variance to allow greater impervious coverage and less buffers than required, and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 12 day of March 1993,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants' request for the following variances are hereby GRANTED:

1. Lot 630 - A variance to permit impervious lot coverage not
exceeding 40%.
2. Lot 640 - A variance to permit impervious lot coverage not
exceeding 40%.
3. Lot 650 - A variance to permit impervious lot coverage not
exceeding 40%.
4. Lot 660 - A variance to permit impervious lot coverage not
exceeding 40%.
5. Lot 670 - A variance to permit impervious lot coverage not
exceeding 40%.
6. Lot 680 - A variance to permit impervious lot coverage not
exceeding 40%.
7. Lot 700 - A variance to permit impervious lot coverage not

9. Lot 720 - A variance to permit impervious lot coverage not exceeding 40%.
10. Lot 740 - A variance to permit impervious lot coverage not exceeding 40%.
11. Lot 750 - A variance to permit impervious lot coverage not exceeding 40%.
12. Lot 770 - A variance to permit impervious lot coverage not exceeding 40%.
13. Lot 780 - A variance to permit impervious lot coverage not exceeding 40%.
14. Lot 790 - A variance to permit impervious lot coverage not exceeding 40%.
15. Lot 730 - A variance to permit impervious lot coverage not exceeding 43%.

The foregoing variances are subject to the following conditions:

1. The applicants are to provide a buffer planting plan for a 25-foot buffer within each lot, (where applicable) along the water between the dwelling and the property line adjoining the water, or alternately, provide a 20-foot on site buffer, with an additional five feet on the common area along the water; or provide equivalent plantings elsewhere in the critical area of any lot not subject to the buffer requirement.
2. The applicants are to provide a bond in the amount of \$.40 per square-foot for the area of planting in the buffer as well as a signed notarized reforestation agreement. The planting plan is to be reviewed by the County Forester.
3. Impervious coverage to include driveway, walks, and other other impervious surface shall not exceed 40% of lot area, except Lot 730 which shall not exceed 5,000 square feet of lot area. The owner of Lot 730 shall mitigate for any impervious coverage exceeding 4,600 square feet (approximately 40%) by providing planting elsewhere in the subdivision on a 1:1 basis for all coverage exceeding 4,600 square feet up to 5,000 square feet.

effort should be made to reduce impervious coverage wherever possible.

FURTHER ORDERED that the applicants are hereby GRANTED a variance to Section 11-102.2 to the extent that the applicants shall obtain the necessary building permits within two (2) years and construction must be completed within three (3) years of the grant.

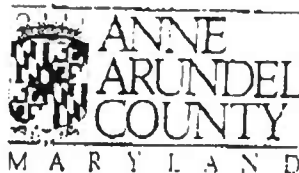
from March 12,
1993


Robert C. Wilcox
Administrative Hearing Officer

NOTICE

Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.



PERMIT APPLICATION CENTER
2664 RIVA ROAD/HERITAGE OFFICE COMPLEX
ANNAPOLIS, MARYLAND 21401
Annapolis: (410) 222-7700
Washington: (301) 870-6250
FAX: (410) 222-7492

April 15, 2002

Ms. LeeAnne Chandler
Chesapeake Bay Critical Area Commission
1804 West Street, Suite 100
Annapolis MD 21401

RE: G02008578 & B02171931
720 South River Landing, Edgewater

Dear Ms. Chandler:

Thank you for your recent letter concerning the above referenced permits. Your interest in the development activities within the County is noted. Your letter has expressed concern with the implementation and enforcement of our local Critical Area Program. Specifically, you are concerned with the enforcement of the variance conditions specified by the County's Administrative Hearing Officer on the aforementioned property.

The County's Administrative Hearing Officer granted variance 2000-0419-V on February 12, 2001. The Order of the approved variance was subsequently amended on March 5, 2001. The approved variance decision allows construction of a dwelling 49 feet from the water and allows up to 40 percent impervious coverage at the above referenced address.

Prior to issuance of the above referenced permits, the applicant was required to address and meet the conditions of the approved variance decision which was subject to the following conditions:

1. The applicant shall revise the site plan to relocate the dwelling to the 15-foot building restriction line adjacent to the street.

{Relocating the proposed dwelling closer to the street increased the amount of grading around the proposed dwelling. This also increased the height of the structure as the dwelling is now located at a higher elevation on the lot than initially proposed. The building permit was rescinded on February 28, 2002. It was revised to reduce the height of the structure to 35 feet as required by the County Code and was reissued on March 28, 2002.}

Ms. LeeAnne Chandier

April 15, 2002

Page 2

2. The applicant shall provide stormwater management. The stormwater management shall include collection of the roof leaders on the water-side of the dwelling, unless the applicant demonstrates to the satisfaction of the Permit Application Center and the Health Department that there is no practicable design that will allow collection of the waterside roof leaders.

{An on-site infiltration device was approved by this Office to provide stormwater management for this project.}

3. The applicant shall revise the configuration of the deck to eliminate encroachment within 30 feet of the well for Unit 710 unless the Health Department approves a waiver.

{The proposed deck does not encroach into the 30-foot well setback. The Anne Arundel County Health Department notified this Office on March 8, 2002 that a building foundation had been constructed less than the required thirty (30) feet from an existing water supply well located at Unit 710. On March 28, 2002 the Health Department notified this Office that the requirements of the Health Department were met by removing the foundation that was less than thirty (30) feet to the neighboring water well on the above referenced property.}

4. The applicant shall provide mitigation at a 2:1 ratio for new impervious surfaces within the buffer and at a 1:1 ratio for disturbance outside the buffer.

{This project will add 2,305 square feet of new impervious surface within the 100-foot buffer and have 4,165 square feet of disturbance outside the 100-foot buffer. The project's total mitigation requirement is $(2,305\text{sf} \times 2) + 4,165\text{sf} = 8,775$ square feet.

This site is not large enough to accommodate all the required mitigation plantings on-site. A planting plan to plant 6,560 square feet of native vegetation on-site was approved by this Office. A completed afforestation/reforestation agreement, planting plan and bond $(6,560\text{sf} \times \$0.40/\text{sf} = \$2,624.00)$ are on file. The remaining 2,215 square feet of mitigation was provided as a fee-in-lieu planting at a rate of $\$0.60/\text{sf}$ $(2,215\text{sf} \times \$0.60/\text{sf} = \$1,329.00)$.

5. The applicant shall provide a buffer planting plan for a 25-foot buffer within the lot, or alternately, a 20-foot buffer onsite with an additional five feet on the common area along the water.

{As stated in number 4 above, a planting plan to plant 6,560 square feet of native vegetation on-site was approved by this Office. The approved planting plan includes a planted 20-foot buffer on-site with an additional five feet of plantings on the common area along the water.}

Ms. LeeAnne Chandler

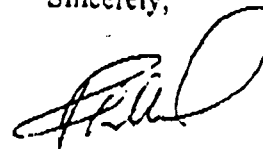
April 15, 2002

Page 3

All the conditions required by the County's Administrative Hearing Officer under variance case number 2000-0419-V were addressed with the aforementioned permits. The subsequent violations have been resolved. One of the neighbors has also appealed the issuance of the building permit (B02171931) to the Anne Arundel County Board of Appeals. A hearing is scheduled for April 29, 2002 to address these same issues.

I hope that this information has clarified what has occurred on this site and how the issues have been addressed. Should you have other questions or wish to discuss this issue or the permitting process further, feel free to contact me at (410)-222-7730. I would also like to invite you to call me in the future to discuss permit related concerns so we can try to avoid the type of letter you sent to me on March 28, 2002.

Sincerely,



Frank W. Ward
Director
Permit Application Center

FWW/WJL

cc: Chron File
John Peacock, I&P
J. Robert Ray, I&P
Robert Walker, Land Use Office

STIRROCK/BRUCHT JLLP FAX: (410) 260-0810
Judge John C. North, II
Chairman



Ren Seroy
Executive Director

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338

March 28, 2002

Mr. Frank Ward
Permit Application Center
3664 Riva Road, MS
Annapolis, Maryland 21401

RE: Morrisette Property at 720 South River Landing, Edgewater

Dear Mr. Ward:

I am writing to inquire about the development activities at 720 South River Landing in Edgewater. This office commented on a variance request for this property in January 2001. Since that time, we have been contacted numerous times by concerned individuals regarding development of the property. These individuals understood that the property was permitted to be developed in accordance with the variance granted by the Administrative Hearing Officer. The concerns came in part from unauthorized activities that occurred at 750 South River Landing, another property owned by the same people. While perhaps a separate issue, these unauthorized activities included construction of patios (in violation of the 40% impervious limit set by a 1993 variance decision) and construction of stone walls and steps within community property, wholly within the Buffer (also in violation of the variance decision). Commission staff contacted the County enforcement office and inquired about these violations. We were told that despite the specific conditions of the variance decision, permits were not needed for those activities and essentially, because some time had passed, there would not be any reparation. However, after we expressed concern about the upcoming development of 720 South River Landing, the inspector reassured us that they would be especially diligent in their subsequent inspections.

Notwithstanding these issues, the property owners applied for grading permits for 720 South River Landing. County staff told us that they had to resubmit their plans two additional times due to discrepancies between their plans and the conditions placed on the variance approval. Most recently, we were contacted again in response to the start of construction. We received plans that indicated there were problems with the building permit related to the fill and grading around the dwelling. In addition, footers were being dug beyond the approved footprint of the dwelling (and into the radius of a neighbor's well). This also is in violation of a specific condition placed on a variance.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Mr. Frank Ward
March 28, 2002
Page 2

This office is extremely concerned about this situation. We are particularly concerned about the enforcement of conditions placed on variances by the Administrative Hearing Officer. These conditions are often the only means of ensuring that the granting of a variance is consistent with the spirit and intent of the Critical Area Program. We would appreciate your assistance in clarifying what has occurred on this site and how these problems are being addressed.

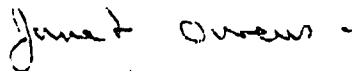
Thank you for your attention to this matter. I may be reached at (410) 260-3460 if you would like to discuss these matters further.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

Cc: Stephen M. LeGendre, Esq.
Michael Farren, Esq.
Mr. Leonard Muller
Marianne Mason, Esq., Assistant Attorney General
Mr. Ren Serey, Executive Director



Judge John C. North, II
Chairman



Ren Serey
Executive Director

**STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338

January 24, 2001

Ms. Suzanne Diffenderfer
Anne Arundel County Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

VIA FACSIMILE

RE: Variance 2000-0419-V, Donald Morrisette - REVISED PLANS

Dear Ms. Diffenderfer:

Thank you for faxing me the revised plan for the above referenced variance request. It appears that the plans have been revised to comply with the 1993 variance approval on the same lot (i.e., providing an at-least 20 foot buffer between the house and property line). As required by the previous decision, a planting plan should be provided for this area. The amount of impervious surface is still above the minimum, though I understand that the 1993 decision allowed 40% imperviousness on several lots, including this one.

That being said, Commission staff is concerned about the absence of any deck or patio on the water side of the dwelling. In the past year, we have seen several variance applications for decks or patios, made necessary by the placement of the dwelling right at the established setback line. Houses were built with second and third level sliding glass doors leading to nowhere. It was being assumed that they could get yet another variance for a deck or patio. We find it difficult to believe that there will be no decking or patio between this house and the water. Therefore, we recommend that, if the variance is approved, it be conditioned on no further variance applications, thus no further development on this lot.

Lastly, proposed disturbance on this lot exceeds 5,000 square feet. Stormwater management is required by the County's Stormwater Management Ordinance. No stormwater facilities appear on the plans. Given the documented erosion problems in the vicinity of this lot, stormwater management should be addressed.

Thank you for the opportunity to review the revised plans. Please include this letter in your file, along with our previous comments, and submit them as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: AA624-00

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

Judge John C. North, II
Chairman



Ren Serey
Executive Director

**STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338

January 4, 2001

Mr. Kevin Dooley
Anne Arundel County Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2000-0419-V, Donald Morrisette

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit a dwelling with less setbacks and Buffer than required and with more impervious than allowed. The property is designated RCA and is currently undeveloped.

Provided this lot is properly grandfathered, this office does not oppose the siting of a single family dwelling on it. However, impacts must be minimized and the variance requested the minimum to provide relief. While the Buffer encompasses much of the lot, it does not appear that an attempt has been made to minimize impacts to the Buffer or to minimize impervious surfaces. While some variance may be warranted, it seems that the house could be pulled further away from the water. The house could also be redesigned such that an impervious surface variance would not be necessary. The variances requested simply are not the minimum to provide relief.

Also, please note, the proposed afforestation amount of 1582 square feet and the conceptual planting detail are not adequate mitigation for the proposed disturbance on this lot. Within Buffer Exempt Areas, mitigation is required at a 2:1 ratio for new impervious within the Buffer and at a 1:1 ratio for disturbance outside of the Buffer. At least some of the plantings should occur on site, **within the Buffer**. (As proposed, there is no room in the Buffer for any plantings.) At least some effort should be made to meet the intent of the regulations.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: AA624-00

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

LEONARD A. MULLER
740 South River Landing
Edgewater, MD 21037

February 22, 2002

Robert Rubinstein
920 South River Landing
Edgewater, MD 21037

Dear Dr. Rubinstein:

Dorate and I hereby exercise our right to appeal the Board's decision of February 19th, 2002 regarding new construction on lot 720, as provided on page 3 of the SRL Resident Guidelines. This appeal requests that an immediate stop be ordered to the current construction process which is rapidly occurring on lot 720, until such time as this appeal is acted upon and the results of the pending appeal to Anne Arundel County are completed. This is absolutely necessary under the current rules, since by definition, an appeal must permit reversal of a decision

Permitting the owner to "proceed at his own risk" is not an adequate, necessary or fair solution. It has long been the result that once a building is constructed, or even partially so, violations are ignored because "it's too late to tear it down". Therefore, continuation of construction cannot guarantee an equitable solution.

This appeal is based on the reasons and observations expressed in paragraph I and II below.

I. The proposed construction is in violation of current Maryland and Anne Arundel laws and regulations, as well as South River Landing regulations/covenants.

- 1) The proposed building on lot 720 exceeds the height limit requirements of the Anne Arundel County law, as confirmed by Charles R. Goodman, the Consultant Architect to the SRL Board.
- 2) The SRL Board approved grading plan for lot 720 approved by the Board violates the Site Plan approved by Anne Arundel County as part of the variance approval, as confirmed by Charles R. Goodman, the Consultant Architect to the SRL Board. .
- 3) The SRL Board approved plan for lot 720 will significantly change the topography of lot 720, resulting in water runoff onto adjacent properties against current law, as confirmed by Charles R. Goodman, the Consultant Architect to the SRL Board. .

Comment:

The same owner and builder who are building on lot 720, built the home on lot 750, directly adjacent to our home, and, in violation of existing laws, raised the house height after approval of the building plan. Similarly they significantly raised the grade surrounding the house relative to the then existing topography of lot 750. They also agreed to grade a "swale" between the two homes to reduce runoff onto our property, but failed to do this, and when reminded of this at the time of grading, became abusive and angry in their refusal to create the agreed upon swale.

Since that time we have had serious problems with runoff from the Morrisette property such that part of our front yard is literally a swamp most of the summer, with standing water, and the side lawn between the houses after rainfall becomes excessively wet and muddy for days following a rain.

The Board approved grading plan on lot 720 places the front of the new Morrisette house on lot 720 above the level of the front of our house. This is a serious alteration of the current topography of this lot which is now well below our house. We are considering taking action to require correction of the problem on lot 750, and will undoubtedly be forced to do so for both lots when the Board approved action results in additional run-off onto our property. In addition, the additional runoff caused will only exacerbate the already serious runoff problems on the "point".

II. The Board process in approving the plan in the February 19, 2002 meeting raises several concerns.

- 1) The Board's refusal to permit discussion from the floor, despite the introduction of very important new evidence regarding the misleading topography information presented on the site plan submitted for approval, was not democratic or fair to the concerned parties.
- 2) The Board's presentation of the SRL's architectural consultant review of the new information down played the fact that this review absolutely confirmed what the Farrens had submitted, in every respect.
- 3) The argument presented by the Board that if the County had provided a building permit on the submitted plan, that was good enough for SRL, is contrary to a fair and accurate decision process. The fact that the County was perhaps misled by the inaccuracies of the submission or less than conscientious in ensuring adherence to the officially approved topography requirements, does not make the result right. Rules, regulations and laws have a reason.
- 4) The argument that many other plan submissions have similar errors and mistakes should have no bearing on this situation wherein a number of aggrieved parties have a right to an absolutely accurate and conscientious review of the facts as they are.
- 5) The appearance of impropriety that is created by the Board's acceptance of at least two gifts of considerable monetary value to SRL during a period in which the contributors are petitioning for approval of a highly controversial proposed action speaks for itself.

Comment:

A majority of the Board members were present for an on site inspection on lot 720 on the morning of February 19th. The large number present highlighted the Board's recognition of the seriousness of the problem. The only other parties to the controversy who seemed to have been invited to this lengthy inspection were the builder and his staff, hardly a disinterested group. Mr. Pilli *also* built the earlier Morrisette house on lot 750 with its many topographical and environmental regulation violations. (Clearly, the appropriate expert to have present for a site inspection by the Board was the SRL consulting architect, but if that was not possible, all interested persons should have been invited, as opposed to only one such person.)

This action, coupled with the seriousness of the effect of the new information provided by the Farrens, and the confirmation of their results by the SRL architect, argue further that there should

have been free and open discussion between the Board and interested parties at the February 19th meeting instead of the very proactive stifling of such participation.

The arguments presented by the Board members, the downplaying of the seriousness of the evidence of deception, and suppression of contributions from the interested parties all presented an appearance of a predetermined decision on the part of the Board.

Sincerely,

Leonard A. Muller

CC: John Barron
Paula Hill
George Dunsay
Jim Wallace
Caroline Popper & Barnett Brooks
Mary Margaret and Michael Farren
Peggy and Doug Edsall

**J. Michael Farren
710 South River Landing
Edgewater, MD 21037**

February 17, 2002

Robert Rubinstein
920 South River Landing
Edgewater, MD 21037

Dear Dr. Rubinstein:

Attached are copies of the plans for Lot 720, which depict the two sides and river front elevation of the building plan. Also attached is the site plan as approved by Anne Arundel County. We have marked the grade as approved on the site plan in green ink on the side and river front elevations of the building plan. We have highlighted in red the grade as it is shown on the elevation drawings of the building plan.

You will note that the grades on the building plan for the structure deviate substantially from the grades that are shown on the site plan. The site plan grades constitute the County approved final grade of the property at the completion of construction. The negative result of the grade deviation is the illusion that the house conforms to height limitations, since the building plans have the grades higher than the county approved site plan grades, thereby causing the building's roof peak to appear to comply with the height limitation. It is important to note that the site plan is the basis of the zoning variance and is the controlling document in setting grades for the building plan.

The grade deviations create confusion when attempting to compare the relative height of the proposed structure and the resulting grades in terms of their overall conformity with the heights, grades and drainage of adjoining properties and homes. Since the grades on the building plan do not conform to the approved grades on the site plan any comparison confronts an inherent conflict.

We strongly believe that this deviation in the grade shown on the house plan versus the approved grades on the site plan demand a thorough analysis by South River Landing, Inc.'s consulting architect before any action is taken by the Board. The deviation in the grades of the site plan versus the building plan also illustrates the basis of the concern expressed by Caroline Popper and me at the February 11, 2002 Board Meeting regarding the absence of any analysis of the grades, elevations, and drainage by the community's consulting architect.

February 17, 2002

Page 2 of 2

We are also asking McCrone Inc., the firm that we have engaged to assist us in verifying elevations and plan conformity, to verify the specific deviation of the grades depicted in the building plan with the grades as approved on the site plan and the implications of those deviations.

Sincerely,

J. Michael Farren

C: Attorney Harry Blumenthal
Caroline Popper & Barnett Brooks

February 18, 2002

Mr. Robert C. Rubinstein
President, Executive Board
SRL Council of Unit Owners
Box 1100, South River Landing
Edgewater, Maryland 21037-1548

Charles R Goodman AIA
Edward A Masek Jr AIA

RE: #720 South River Landing
Morrissette Residence
Architectural Review

Dear Mr. Rubinstein:

At your request I am documenting my response to several questions raised by you at our meeting this past Thursday, February 14. It is my understanding that these questions were due to the on-going concern of adjacent neighbors that construction of the proposed Morrissette residence will negatively impact their residences.

During our meeting it was requested that I determine the height of the highest roof peak, using the first floor of each residence as a datum, for the residences located on lots 710, 720 and 730. The elevation of each first floor was provided to me by you and is evidently based on information determined by a professional surveyor. I should note that my determination was based on architectural drawings for each residence provided by you. This is a somewhat inaccurate method of determining the heights of the existing residences, as there is no guarantee that they were built in accordance with the drawings.

1. Unit 710 (Farren): Roof peak is at elevation 53.3+/- based on a first floor elevation of 21.4.
2. Unit 720 (Morrissette): Roof peak is at elevation 54.2+/- based on a first floor elevation of 22.1.
3. Unit 730 (Brooks): Roof peak is at elevation 47.9+/- based on a first floor elevation of 18.9.

Again, I would like to caution that this is potentially a very inaccurate method of determining the height of the peaks of the existing residences and would

Lester A Weller AIA
Mark E Hasslinger AIA
Richard A Kleponis AIA
John J Zerd ASID
Associates

Howard W Wheeler Sr
1915-2000

912

Commerce

Road

Annapolis MD

21401-3079

410.841.6787

410.841.5523 Fax

February 18, 2002
Mr. Robert C. Rubinstein
Page 2 of 3

suggest that a professional surveyor determine these heights by taking actual measurements of the existing residences.

During our meeting I was asked by you if, in my opinion, lowering the roof peak of the proposed Morrisette residence would significantly lessen its impact on the Brooks residence (730). In my opinion it would not significantly lessen the impact. Obviously, any reduction in height would help. However, lowering the peak by reducing the roof pitch would not lower the "gutter line" of the roof and therefore, not significantly reduce the size of the east elevation or significantly reduce the overall massing of the structure.

It was also requested that I give my opinion regarding the ability of a person standing on the proposed second floor deck of the Morrisette's residence to look into the master bathroom windows of the Farren residence (710). Based on the drawings of both residences provided to me, it will be possible for a person standing on the Morrisette's deck to do so.

It is my understanding that Mr. Morrisette has agreed to lower the chimney to the minimum allowed by code. The code minimum dictates that the point of discharge of the chimney (typically the top of the flue) must be two feet higher than any roof surface within ten feet of the point of discharge. This will allow the chimney to be lowered substantially.

Based on my subsequent telephone conversation with you on February 18, at your request I have compared the grades shown on the Morrisette's site plan with the grades indicated on the architectural elevations of their proposed residence. As further requested, I have "red-marked" what I believe to be the correct grades on these elevations. You will note that my "red-marked" grades vary significantly with the grades originally indicated by the architect on these elevations. The grades on the north or river side of the house vary the greatest and are approximately three feet lower at the northeast corner than indicated on the architect's drawings. Based on this variation, the grades on both sides of the house also differ significantly from the grades shown on the architectural drawings.

In answer to your question, if these architectural elevations were the basis of Anne Arundel County's permitting review, it is possible that their determination that the residence is within the allowable height limitation could

February 18, 2002
Mr. Robert C. Rubinstein
Page 3 of 3

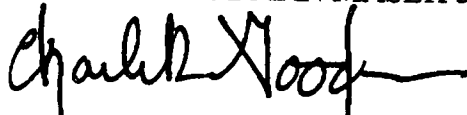
be incorrect. Anne Arundel County uses a "weighted" averaging of grades for determining maximum heights and therefore, I would suggest that code officials be asked to make a new determination that the proposed residence is within the height limitation. Their new determination should be based on the grades established by the site plan as opposed to the architect's elevations.

During our meeting I made a suggestion to you that perhaps, as a compromise, in addition to lowering the peak of the roof, the first floor elevation could be lowered by approximately one foot. It appeared from the architectural drawings that this would still allow ceiling heights of approximately eight feet in the southern portion and nine feet in the northern portion of the lower level. On Thursday afternoon I received a telephone call from Mr. Morrisette's architect, Dave Riegel. Mr. Riegel was calling at Mr. Morrisette's request. We discussed lowering the roof peak and the elevation of the first floor. Mr. Riegel stated that it probably was not possible to lower the elevation of the first floor as the lower level ceiling heights were necessary due to ductwork for the heating/cooling systems. In my opinion, based on the grades shown on the site plan, it would seem possible to lower both the first floor elevation and the lower level elevation, therefore maintaining the floor to ceiling heights shown on the drawings. Mr. Riegel also stated that he was going to review roof peak heights with Mr. Morrisette. He telephoned me later that day to inform me that the roof peak would be lowered but did not state an amount.

If you have any questions regarding this matter or require any clarification, please contact me.

Very truly yours,

WHEELER GOODMAN MASEK & ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read "Charles R. Goodman", with a stylized flourish at the end.

Charles R. Goodman, AIA
Principal

RE: Morrisette
Regina -
I put all this down on paper
last week, thinking we would send
a letter to the County about it. now
that there's been an official appeal,
I'm not sure what to do. ?

December 2000 - received copy of variance application for 720 South River Landing Rd.
Requested variance to permit a dwelling with less setbacks and Buffer and with more impervious
than allowed. (Variance case #2000-0419-V)

Made aware of other variances within South River Landing whereby each lot was granted 40%
imperviousness. This lot was not built on in the required time so they had to re-apply for
variances.

Neighbors concerned about the proposed impact to the Buffer (i.e., how close they are proposing
to build) want them to move the house back, towards the front building restriction line.

Hearing held in January 2001. Variance granted for disturbance to the Buffer (minimum setback
from the water = 49 Feet) and up to 40% impervious cover. Some revised plans offered at the
last minute at the hearing, changing the front layout, adding a deck on the back.

One of neighbors (at 740 South River Landing Road), particularly concerned about the proposal
of the Morrisette's because they already have a house at 750 South River Landing. Activities
on that property exceed the approval previously granted in 1993. They added a brick patio a
couple years ago and then recently added on to the patio. Provided with pictures of patio with
the new section clearly showing as well as illegally constructed stone steps in the Buffer. Went
to the site to see it myself. Contacted Lou Pizzaro (the AA County Inspector who visited the
property), provided him with a copy of the 1993 variance decision. Later spoke to John Peacock
about the potential violation, he indicated that since the patio had been there for a while they
couldn't do anything. Further, the recent additions to the patio were just a reconfiguration of
what had been there. When asked about the stone steps and retaining walls in the Buffer, he said
again that they were legal because they were less than 2 feet off the ground. They didn't need a
permit for them. He also said that since the area is well vegetated, he did not see a problem. I
explained my concern about the unauthorized work that had occurred at 750 South River
Landing and since the same people were developing 720 South River Landing, my ongoing
concern that they were going to do the same thing there. He indicated that they would keep an
eye on things at 720 and ensure there were no violations.

Meanwhile at 720 South River Landing, the property owner applied for grading permits with a
plan that differed from what was approved at the variance hearing. Jay Leshinske rejected two
sets of plans and finally approved a grading plan in the fall of 2001.

Feb. 2002. – Contacted by neighbors of Morrisette's regarding the building permit issued for 720, in particular the proposed topography. The building permits that were approved had different grades than both the grading permit and the site plan approved at the variance hearing. Spoke to Jay Leshinske and he indicated that that was incorrect and that the grading permit and building permit had the same grades on them. Later spoke again to the neighbors and the consultant they hired. They confirmed that the building permit site plan had different grades on it than the grading permit site plan. (Apparently it is just assumed that they are the same.)

I received a packed of information on March 4, 2002. It included a photograph of the beginnings of the foundation. The limits of the foundation exceeded what was approved. It also included copies of correspondence sent to the County and the Health Department regarding the footers being placed incorrectly.

March 11, 2002 – Noticed that the grading permit plan shows a 20 foot radius around the Farren's well instead of the 30 feet that is required. No waiver has been granted from the health department to reduce the setback. The variance decision specifically stated that the deck had to be reconfigured to avoid the 30 foot radius of the well. A stop work order has been issued for the property.

Never sent

August 9, 2001

Mr. Walter Chitwood
Department of Inspections and Permits
3664 Riva Road
Annapolis, Maryland 21401

Dear Mr. Chitwood:

This office has been made aware of a potential violation involving placement of structures within the Critical Area Buffer and noncompliance with the conditions of a variance approval. The property of concern is located at 750 South River Landing Road in Edgewater, Maryland. The property, along with 14 others, received a variance to allow them to be developed with single family dwellings in 1993. The variance was subject to the condition that impervious surfaces not exceed 40% of the lot and the condition that a buffer be provided on each lot. The complete variance decision is attached.

This past weekend, August 3rd through August 5th, the owners of 750 South River Landing Road expanded a stone patio on the water side of their house. The enclosed photographs document the construction of the patio addition. Notwithstanding any violation of the impervious limit as set forth in the variance decision, this stone patio is obviously within the Critical Area Buffer. We recognize that a building permit may not have been required for construction of the patio; nevertheless the County Zoning Ordinance prohibits new non-water dependent development activities within the Buffer.

It is our understanding that the activities over the weekend were reported to your department and an inspector went to the site. Despite several inquiries by Commission staff into this matter, no response has been received. We are concerned about this situation and would like it to be addressed as soon as possible. Please let me know what steps the County will be taking to resolve this case.

Sincerely,

Ren Serey
Executive Director

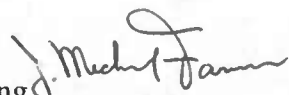
Cc: John Peacock, Environmental Programs

LAC

June 17, 2001

To: W. Jay Leshinskie
Permit Application Center
Anne Arundel County

From: J. Michael Farren
710 South River Landing
Edgewater, Maryland 21037



Subject: Grading Permit No. G02008578
Applicant: Donald Morrisette

As an adjacent property owner, I wanted to bring to your attention that the site plan submitted with the above referenced Grading Permit is different in a significant respect from the revised site plan that was the basis of the February 12, 2001 variance ordered by Mr. Stephen M. LeGendre, Administrative Hearing Officer.

Attached are copies of the revised site plan, which was the basis of the order, and the site plan submitted with the grading permit.

The variance order called for the footprint of the dwelling as depicted in the "revised site plan" to be relocated to the 15-foot building restriction line adjacent to the street. This entailed moving the entire footprint 9 to 10 foot closer to the roadway.

The position of the dwelling's footprint in relation to the 100' Tidal Buffer line has remained unchanged in the grading permit site plan. The fact that the dwelling's footprint has been modified and not moved in accordance with the variance order is apparent by the fact that the roadside "stoop" is still bisected in the same location by the 100' Tidal Buffer line. The dwelling's footprint has been altered, but its' location has not been moved.

The footprint of the dwelling has been altered in the grading permit site plan. The garage has been extended with 6 to 7 foot added to its' length on the roadside of the dwelling. The February 12, 2001 order required the entire footprint, as depicted in the January 25, 2001 revised site plan, to be relocated 9 to 10 foot closer to the roadway.

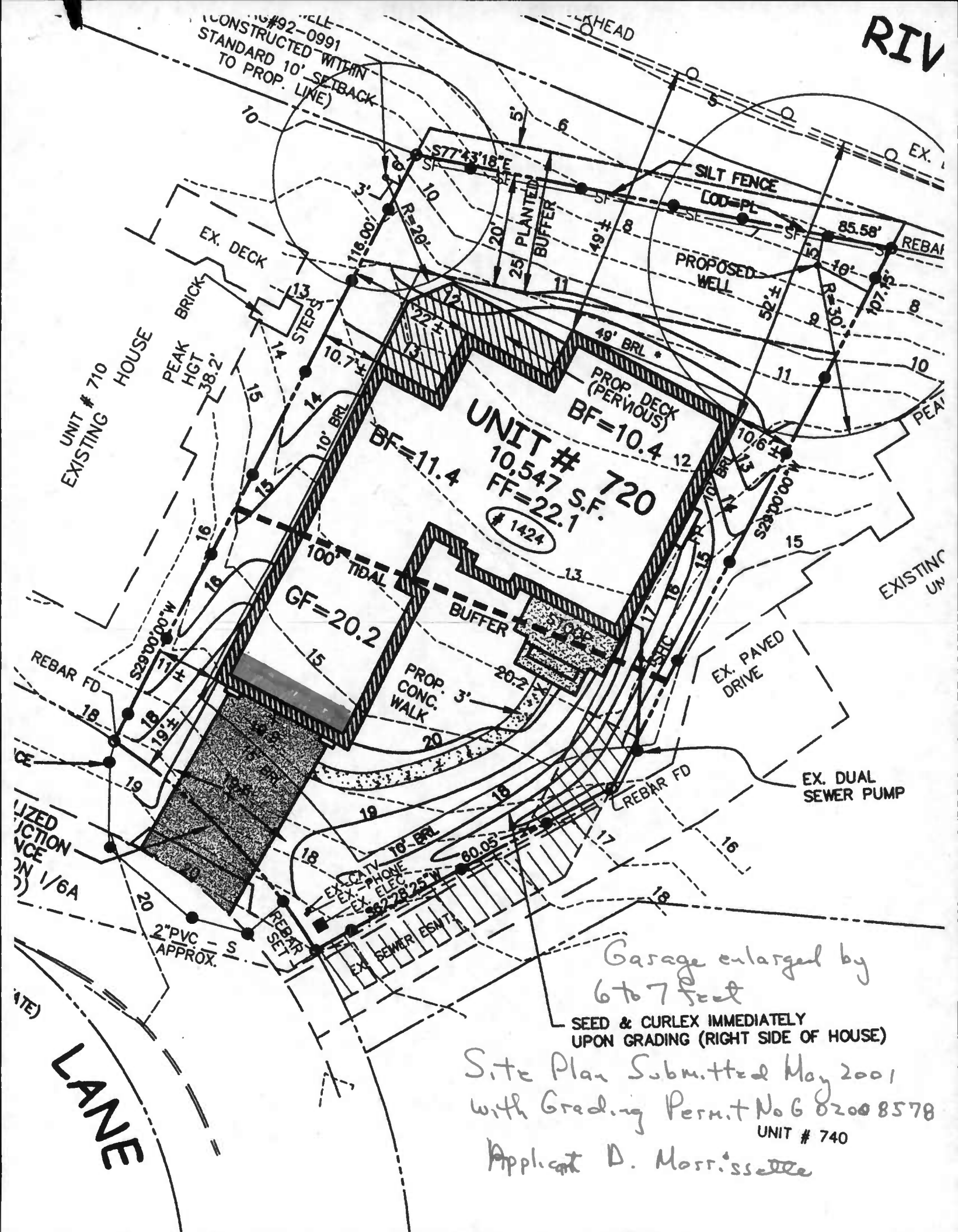
The dwelling's footprint in the grading permit site plan appears somewhat closer to the 15-foot building restriction line merely because of the 6 to 7 feet added to the front (roadside) of the garage.

C: Suzanne Diffenderfer
Harry Blumenthal
Barnett Brooks & Caroline Popper
Lee Ann Chondler

RECEIVED

JUN 19 2001

CHESAPEAKE BAY
CRITICAL AREA COMMISSION



RECEIVED

JUN 19 2001

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

RIVER

LIMIT OF DISTURBANCE
SUPER SILT FENCE

SSF

S77°43'18"E

EX. BULKHEAD

PROPOSED WELL

STEPS (PREVIOUS)

REBAR FD

PEAK HGT 33.1'

EXISTING HOUSE UNIT # 730

HOUSE PEAK HGT 38.2'

BRICK

EX. DECK

STEPS

UNIT # 1424

PROP. DECK (PREVIOUS)

FF=21.5
BF=11.5

10,547 S.F.

B-3

GF=19.0

100' TIDAL BUFFER

PROP. SWM TRENCH 18.8

EX. PAVED DRIVE
EX DUAL SEWER PUMP

REBAR FD

60.05'

EX CATV
EX TELE
EX ELEC
S62°28'25"W

EX SEWER ESMT.

2"PVC - APPROX.

REBAR SET

UNIT # 740

"Revised"

Site Plan Submitted at
January 25, 2001 Variances Hearing
by Applicant D. Morrisette

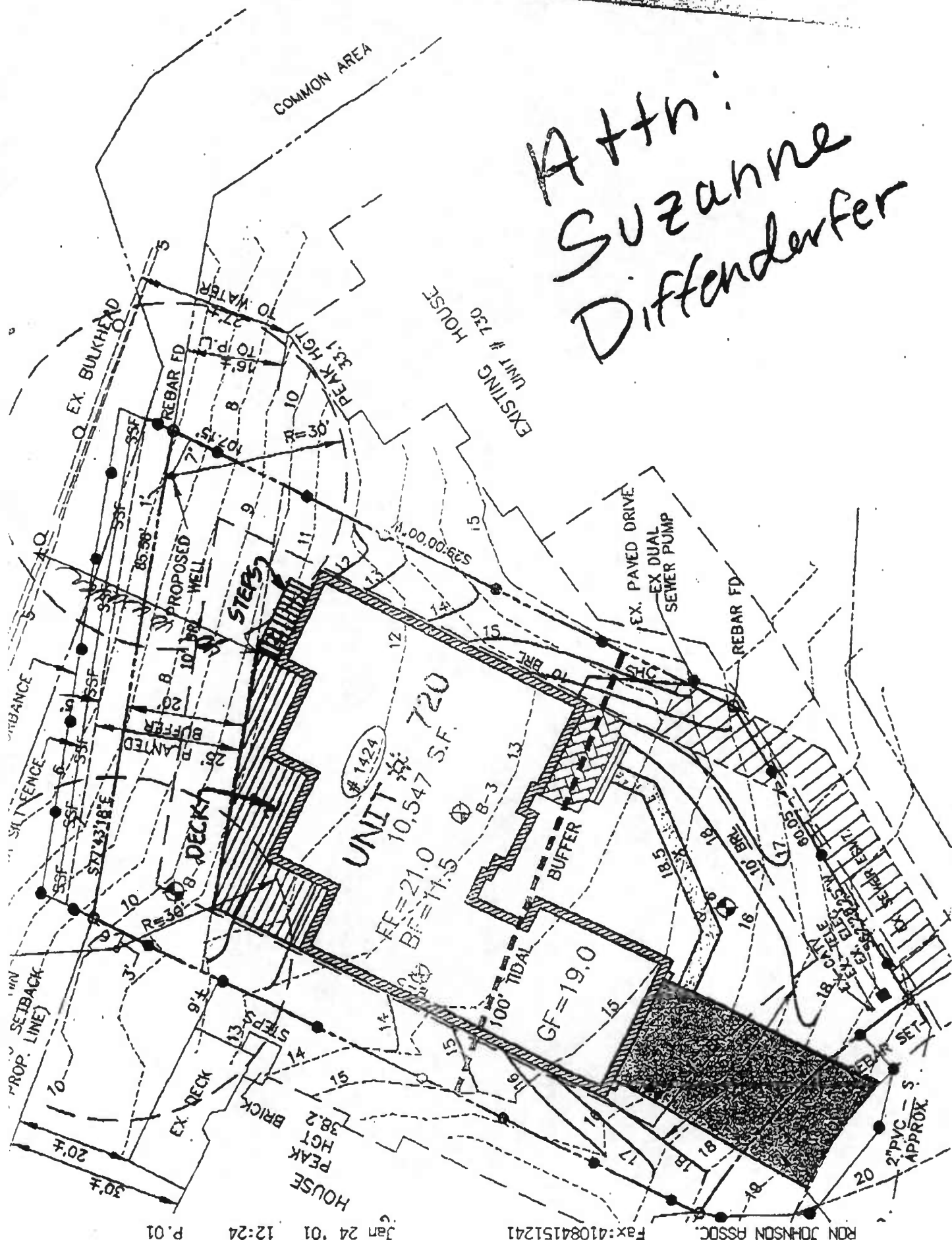
PLAN SCALE: 1"=20'

Site Plan Submitted at
January 25, 2001 Varicue Hearing
by Applicant D. Morrissette

PLAN SCALE: 1"=20'

RECEIVED
JUN 19 2001
CRITICAL AREA COMMISSION
CHESAPEAKE BAY

Attn:
Suzanne
Diffenderfer



P.01

Jan 24 '01

12:24

Fax: 41084151241

RDN JOHNSON ASSOC.

410 956 8435

BARNETT QUINTON BROOKS & ASSOCIATES, LLC
ATTORNEYS AT LAW

BARNETT Q. BROOKS
Admitted in Maryland*
and Pennsylvania

326 Saint Paul Place, Third Floor
Baltimore, Maryland 21202
Telephone: (410) 576-7800
Fax: (410) 234-0525
www.bqbbrookslaw.com

Susan Kirwan*

January 10, 2001

VIA FACSIMILE
410-222-4483

Ms. Suzanne Diffenderfer
Planner, Zoning Administration
Arne Arundel County
Department of Planning and Code Enforcement
2664 Riva Road/P.O. Box 6675
Annapolis, Maryland 21401

To: Lee Anne
Chandler
Phone 410-266-3477
Fax 410 974-5338

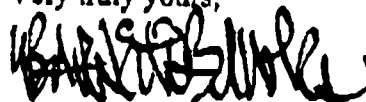
Dear Ms. Diffenderfer:

I own 730 South River Landing which is adjacent to the property on which Mr. and Mrs. Morrisette wish to build a home and have applied for a variance. I do not object to the Morrisette's building a home that is consistent with South River Landing subdivision plans as approved by the County in August 1984, and which complies with the 1993 variance with regard to buffer areas, setbacks and would have no adverse impact on the critical areas.

While I have not been shown the full plans for the house and property, I understand that the proposal, as written, may further exacerbate the problem with erosion that now exists along our adjacent bulkheads. For several years, the bulkhead adjacent to my property has continued to erode and although I have raised this issue repeatedly with the past Board of South River Landing, nothing, whatsoever, has been done. I would therefore object to any new construction which would not adhere to the 25/20 foot buffer area between a house and its property line as required by the March 12, 1993 variance which would further exacerbate the existing erosion problem.

At the very least, the variance granted on March 12, 1993 should be maintained with the 25/20 foot buffer within each lot, along the water between the dwelling and the property line adjoining the water respected. Otherwise the variance should be denied.

Very truly yours,



Barnett Q. Brooks

BQB:ldh

**John Richardson
700 South River Landing
Edgewater, Maryland 21037**

To: Lee Anne
Chandler
Phone 410-262-3477
Fax 410-974-5338

January 10, 2001

Ms. Suzanne Diffenderfer
Planner, Zoning Administration
Anne Arundel County
Department of Planning and Code Enforcement
2664 Riva Road/ P.O. Box 6675
Annapolis, Maryland 21401

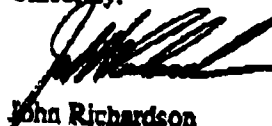
Dear Ms. Diffenderfer:

As a property owner within 175 feet of 720 South River Landing, I want to express my concern about a zoning variance being requested by Mr. Donald Morrisette (Case Number 2000-0419-V). The property subject to the variance application is the last undeveloped lot in South River Landing. It is most important for the County to consider the location of existing houses, particularly those adjacent to the lot, and the consistency of the overall neighborhood before acting on this application.

This area of South River Landing is densely developed within restrictions imposed by the condominium association and the original variances granted by the county. It will be in the best interest of the community and the immediate neighborhood for the County to apply zoning requirements that are no more favorable than those imposed on all the adjacent lots, which have already been developed. To lessen the zoning requirements for this property will have an adverse impact on the homes of adjoining property owners.

Please act in a manner that will safeguard the critical tidal area and, at the same time, maintain the consistent and uniform location of houses in relation to one another, the roadway, and the South River.

Sincerely,



John Richardson

**J. Michael Farren
710 South River Landing
Edgewater, Maryland 21037**

January 9, 2001

Ms. Suzanne Diffenderfer
Planner, Zoning Administration
Anne Arundel County
Department of Planning and Code Enforcement
2664 Riva Road/ P.O. Box 6675
Annapolis, Maryland 21401

Subject: Variance Application – Donald Morrisette – 2000-0419-V

Dear Ms. Diffenderfer;

In anticipation of the January 25, 2001 Hearing on the above referenced variance application, I have reviewed the site map and related documents that were submitted as part of the application package.

As the owner of the home on the adjacent lot/property, I have several objections to the variance application submitted by Mr. Morrisette. The variance, if approved, would alter the essential characteristics of the neighborhood and will have an adverse effect on adjoining properties. In addition, the proposed location of the new home on the property does not minimize the intrusion of impervious surface within the 100-foot tidal buffer.

The proposed variance, if approved, would result in the development of the property in a way that is inconsistent with the variance granted on March 12, 1993 for this property and other adjacent parcels. The other parcels were developed within three years as required. Each met the requirement for a 25/20-foot buffer within each lot, along the water between the dwelling and the property line adjoining the water. Mr. Morrisette is proposing to build a house only ten feet from the property line with a deck structure only three to four feet from the property line. The absence of the 25/20-foot buffer area between the house and the property line, as was required by the March 12, 1993 variance, will further exacerbate the existing erosion and washouts that persists along the bulkhead.

The variance requested by Mr. Morrisette, without the comparable 25/20-foot buffer area, which was imposed by the 1993 variance on adjacent properties, would result in the structure unnecessarily disrupting the portion of the 100-foot tidal buffer area that is closest to the South River itself. This closer proximity of the structure to the river would also have the perverse affect of placing the front of the house out of alignment with other homes and also in misalignment with the roadway. Other homes on the road were constructed to create relative uniformity of the front facades' alignment in relation to each other and their distance from the roadway. As an example, the proposed location of the new house would place its front facade at least twenty feet behind the front of our house on the adjacent lot. That disparity of twenty feet at the front is a direct result of the new house failing to conform to other houses adhering to the 1993 variance and providing a 25/20-foot buffer in the rear along the river.

By imposing the same requirements that existed in the 1993 variance, the new house could be sited as much as twenty feet closer to the road and, thereby, would entirely remove about one-third of the structure from the 100 foot tidal buffer area. In addition to benefiting the critical area, the siting of the house in a position that is consistent with the location of adjacent houses will preserve the essential characteristics of the neighborhood and avoid adverse affects to adjoining property owners.

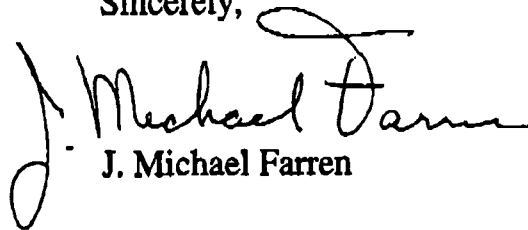
The proposed variance also appears to potentially disregard the subdivision plan for South River Landing as approved by the County in August 1984. The subdivision plan requires that the maximum unit size be 5,000 square feet. The impervious area coverage of the proposed house is 2,928 square feet with two stories, including living space above the garage. That area, plus living space in the lower level will clearly result in the unit size exceeding 6,000 square feet.

Another matter that is not addressed by the variance documents and site map is the violation of County required setbacks from existing water supply wells. The site map depicts the new house location not more than twenty feet from our existing water supply well, which is located along the adjoining property line at the rear corner closest to the river. The setback requirement is a minimum of thirty feet. The site map also depicts a proposed stormwater management structure approximately forty feet from our existing water supply well. The county required setback for existing

wells from stormwater management structures is at least fifty feet. This pending violation of Health Department enforced setback requirements is a direct result of this proposed variance seeking conditions that are much more lenient than the 1993 variance with regard to buffer area, setbacks, and adverse impact on the critical area. Again, this violation could be avoided by siting the house closer to the road with a buffer at the rear between the house and the property line that adjoins the river, which is consistent with the 1993 variance.

I urge the County to deny the variance request.

Sincerely,

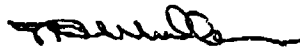


J. Michael Farren

C: Harry Blumenthal

Fax

To: Ms. Mary Owens
From: Leonard Muller
Date: Thursday, January 11, 2001
Subject: attached letter re Morrisette
Pages: 3, including this



I am familiar with your report entitled "Impervious Surfaces. The attached letter from me to Ms. Suzanne Diffenderfer refers to this subject.

Mr. J. Michael Farren, who I understand has spoken to you earlier regarding the variance request referred to in the attached letter, suggested that I send you a copy of it for your information.

Fax

**Leonard Arthur Muller
740 South River Landing
Edgewater, Maryland 21037**

January 10, 2001

Ms. Suzanne Diffenderfer
Planner, Zoning Administration
Anne Arundel County
Department of Planning and Code Enforcement
2664 Riva Road, PO Box 6675
Annapolis, Maryland 21401

RE Variance Application 2000-0419-V - Donald Morrisette

Dear MS. Diffenderfer:

Mrs. Muller and I are the owners of a home at 740 South River Landing. Our lot is adjacent to, but not contiguous to lot 720, the subject of the above variance request. Because of the arrangement of the lots, our lot is only a few feet from 720, on the other side of the long driveway leading to #730.

As you may know, in order to accommodate a large number of homes on the available waterfront in the South River Landing development, a large number of small plots were laid out on the water, offset by a large amount of open land within the community devoid of construction. This layout was apparently planned in the hopes that it would permit a sufficient amount of natural absorption of water, eliminating excessive run-off of water into the Chesapeake Bay.

Virtually every building lot in South River Landing is faced by empty, open land opposite it. The only exception is on the "point" where lot 720 is located. Here the developer attempted to maximize those lots which would generate the highest sales price because of the fine views on the South River. As a result, there is not only a high concentration of small, narrow waterfront lots on the "point", but also, contrary to the rest of the development, there are building lots across the road from the waterfront building lots. The result, given the topographical land condition and the horseshoe shape of the road on the point, is that an extremely high density of housing has been created with a very large percentage of impervious covering and very little open ground. This is aggravated by certain houses which are larger than the norm in the community.

The result can be seen already in serious run off problems causing damage to the waterfront bulkheads, with obviously excessive run off into the Bay. From an aesthetic point of view, this crowding also reduced the attractiveness of this part of the subdivision as compared to the remainder.

The variance requested by Mr. Morrisette places the proposed home very near the water, not only in violation to the 100 foot tidal buffer, but also counter to the now expired variances which were granted eight years ago. Those variances required a buffer of 25 feet from the lot line running approximately parallel to the waterfront, whereas the proposed variance on lot 720 would place the house only ten feet from that lot line, with a deck even closer.

Moreover, all the waterfront houses on lots perpendicular to the South River maintain a roughly uniform distance from the road and the water, thus providing an attractive appearance from the road and equal views on the river for all the occupants. Since the proposed house is very large, probably about 6000 square feet, the proposed placement would not only encroach more on the 100 foot tidal buffer than the other houses, but would block views of adjacent houses.

The proposed house not only violates the current 100 foot tidal buffer in an area experiencing excessive run off problems, but does not even conform to the earlier variances which have since expired. In addition, because of its massive size, it contributes to the overcrowding on the "point".

We therefore recommend that the variance be denied.

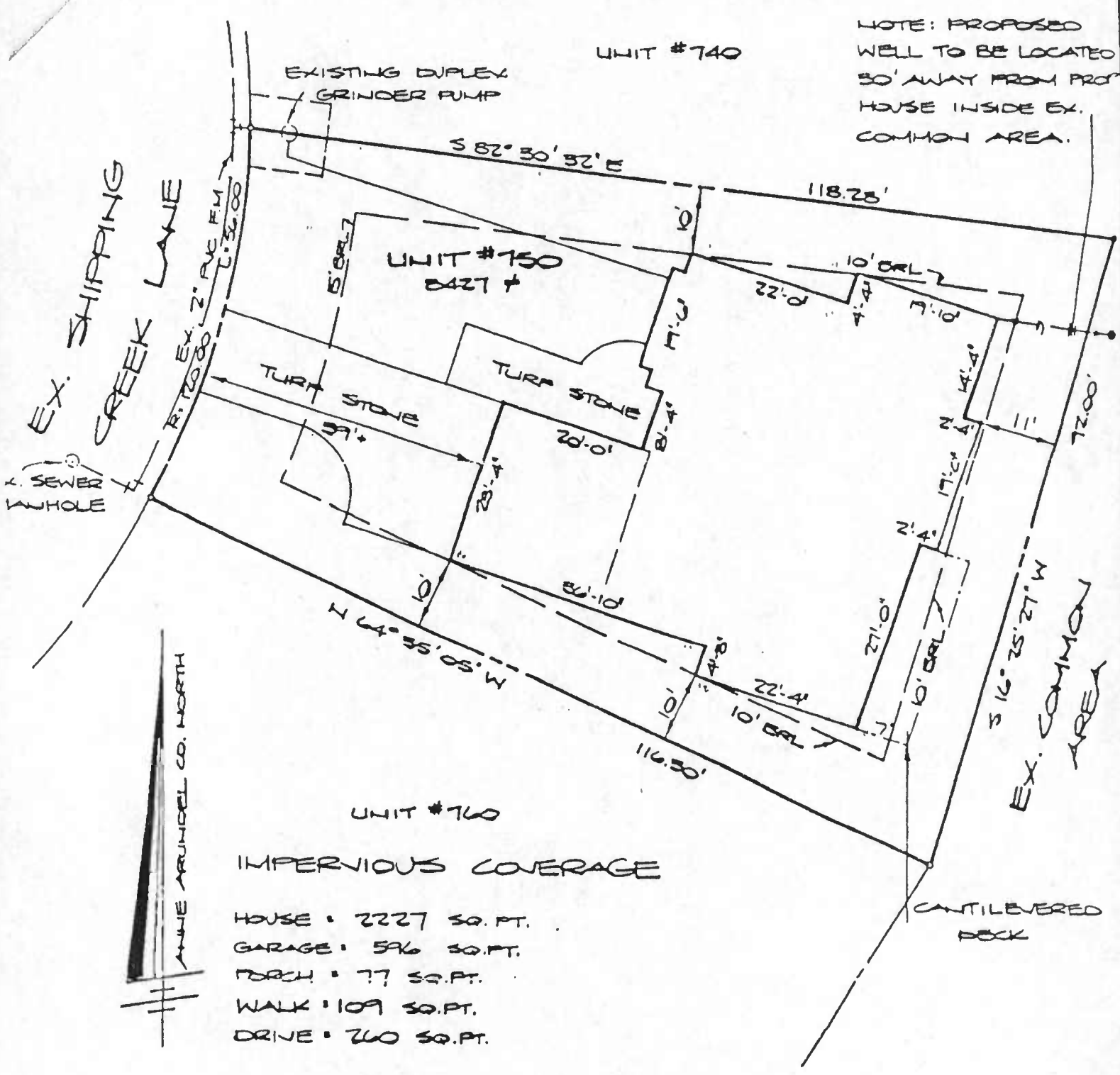
Sincerely,



Leonard A. Muller







ANAREX, INC.
303 NAVOLES RD.
SUITE 114
MILLERSVILLE, MD. 21108

1ST DISTRICT ANNE ARUNDEL CO., MD.
SCALE: 1" = 20' NOVEMBER, 1993
TAX MAP 56 BLOCK 7 SUBDIVISION

RECEIVED

JAN 17 2001

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBERS V-26-93, V-27-93, V-28-93
V-29-93 and V-30-93

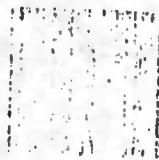
Re: ANNAPOLIS FEDERAL SAVINGS BANK,
ROBERT & MARGARET MARCHETTI, DOROTHEE MULLER, URVAN STERNFELTS
AND GEORGE & FLORENCE THERIAULT

FIRST ASSESSMENT DISTRICT

DATE HEARD: MARCH 9, 1993

ORDERED BY: ROBERT C. WILCOX, ADMINISTRATIVE HEARING OFFICER

DATE FILED: MARCH 12, 1993



Preservation of wetlands has become almost a religion in Maryland. The holy crusade to protect all pieces of the foundation of life in the Chesapeake has been institutionalized, its mission turned into sacrosanct official doctrine...

Laws and regulations need not be carved on stone tablets. They should be tempered with judgement and concern for human sensitivities...

Editorial: Baltimore Sun, August 11, 1992.

PLEADINGS

The applicants, Annapolis Federal Savings Bank (V-26-93), Robert & Margaret Marchetti (V-27-93), Dorothee Muller (V-28-93), Urvan Sternfels (V-29-93), George & Florence Theriault (V-30-93), are petitioning for a variance to allow greater impervious coverage and less buffer than required on properties located on both sides of Shipping Creek Lane, east of Overwood Way and north of Danforth Lane, Edgewater.

PUBLIC NOTIFICATION

At the hearing the Administrative Hearing Officer reviewed the file and ascertained that the case had been advertised in accordance with the provisions of the Code. William Lannon, Director of Planning for Landtech Corp; submitted an affidavit which states that the property had been posted for more than fourteen (14) days prior to the hearing.

FINDINGS & CONCLUSIONS

The applicants constitute the various owners of 15 residential building lots in the subdivision known as South River Landing located in Edgewater. Specifically, the property is shown as Lots 630, 640,

650, 660, 670, 680, 700, 710, 720, 730, 740, 750, 770, 780, and 790.

South River Landing is an approved subdivision developed as a condominium regime. Eighteen lots remain unimproved, 15 of which are the subject of this application. All of the property is zoned R-5 residential.

The proposal calls for single-family dwellings to be built on the referenced 15 lots. This development will be consistent with the 66 lots which are already improved. The existing 66 dwellings have been built in the range of 4,000 to 5,000 square feet of floor area and all have impervious lot coverage approaching 40 percent. These lots were developed in accordance with the applicable zoning laws existing at the time of subdivision approval and construction. The Chesapeake Bay Critical Areas Law now prohibits, inter alia, lot development which exceeds 25 percent impervious coverage. Since this is a waterfront community, the subject lots are within 1,000 feet of tidal waters (South River) and are, therefore, limited by the 25 percent coverage rule. The development of South River Landing, previously approved, reflects a community development scheme with up-scale homes, driveways, walks and other impervious areas approaching 40 percent lot coverage. The applicant argues and the county agrees that the imposition of the 25 percent impervious lot coverage limitation for a subdivision is 80 percent complete would destroy the aesthetic and functional fabric of South River Landing without any significant benefit to the environment. This is so because of the unusual nature of the subdivision itself. None of the 84 lots in this subdivision are waterfront lots. The subdivision, according to Mr. Josephson, is unusual in that it consists of single-family residential dwellings

operating under a condominium concept. As such there exists greater areas of common open space. Access to the water is restricted. The Chesapeake Bay Critical Areas Commission offered no objection to the variances in this case. Likewise, the environmental division of the Anne Arundel County Office of Planning and Zoning did not object to the requests provided certain conditions relating to required buffers and planting requirements, designed to mitigate the additional impervious coverage, were met. No one testified in opposition to the proposal.

CRITICAL AREAS

The subject property is located within 1000' of tidal waters. It is, therefore, subject to the Chesapeake Bay Critical Areas Law, Maryland Code, Natural Resources Article, Section 8-1808 et seq. The applicants have submitted the required environmental impact reports which were reviewed by the Office of Planning and Zoning and found to be acceptable. Based on the recommendations of the Office of Planning and Zoning, I find that:

1. The proposed dwellings with greater impervious coverage will not have an adverse impact on water quality resulting from pollutant discharge, and
2. All fish, wildlife and plant habitats have been identified, and the proposal will not threaten or diminish any of the habitats.

Based on the foregoing, I find and conclude that the variances requested in this case comport with the spirit and intent of the zoning law. South River Landing appears to be a well-designed residential

community incorporating expensive homes which are laid out in a manner which maximize the natural environment by providing large area of common open space while restricting use of the boarding shoreline. The intent of the Chesapeake Bay Critical Areas Law can, in my opinion, be met, notwithstanding the increased impervious lot coverages here requested. The imposition of the more restrictive lot coverage requirements (25%), after three-quarters of the subdivision has been built, would constitute an obvious hardship and be counter productive since the aesthetic balance of the community would be upset without any countervailing environmental benefit. The variances in this case would not alter the essential characteristics of the neighborhood nor would they have an adverse affect on any of the adjoining properties. Indeed, the opposite is true. I find the variances to be the minimum necessary to afford relief.

Accordingly, the applicants shall be GRANTED the following variances:

1. Lot 630 - A variance to permit impervious lot coverage not exceeding 40%.
2. Lot 640 - A variance to permit impervious lot coverage not exceeding 40%.
3. Lot 650 - A variance to permit impervious lot coverage not exceeding 40%.
4. Lot 660 - A variance to permit impervious lot coverage not exceeding 40%.
5. Lot 670 - A variance to permit impervious lot coverage not exceeding 40%.
6. Lot 680 - A variance to permit impervious lot coverage not exceeding 40%.
7. Lot 700 - A variance to permit impervious lot coverage not exceeding 40%.
8. Lot 710 - A variance to permit impervious lot coverage not exceeding 40%.
9. Lot 720 - A variance to permit impervious lot coverage not exceeding 40%.
10. Lot 740 - A variance to permit impervious lot coverage not exceeding 40%.
11. Lot 750 - A variance to permit impervious lot coverage not exceeding 40%.

12. Lot 770 - exceeding 40%. A variance to permit impervious lot coverage not exceeding 40%.
13. Lot 780 - exceeding 40%. A variance to permit impervious lot coverage not exceeding 40%.
14. Lot 790 - exceeding 40%. A variance to permit impervious lot coverage not exceeding 40%.
15. Lot 730 - exceeding 43%. A variance to permit impervious lot coverage not exceeding 43%.

The foregoing variances are subject to the conditions listed in the Order.

ORDER

PURSUANT to the application of Annapolis Federal Savings Bank (V-26-93), Robert & Margaret Marchetti (V-27-93), Dorothee Muller (V-28-93), Urvan Sternfels (V-29-93), George & Florence Theriault (V-30-93), petitioning for a variance to allow greater impervious coverage and less buffers than required, and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 12 day of March 1993,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants' request for the following variances are hereby GRANTED:

1. Lot 630 - A variance to permit impervious lot coverage not exceeding 40%.
2. Lot 640 - A variance to permit impervious lot coverage not exceeding 40%.
3. Lot 650 - A variance to permit impervious lot coverage not exceeding 40%.
4. Lot 660 - A variance to permit impervious lot coverage not exceeding 40%.
5. Lot 670 - A variance to permit impervious lot coverage not exceeding 40%.
6. Lot 680 - A variance to permit impervious lot coverage not exceeding 40%.
7. Lot 700 - A variance to permit impervious lot coverage not exceeding 40%.

8. Lot 710 - exceeding 40%. A variance to permit impervious lot coverage not exceeding 40%.
9. Lot 720 - A variance to permit impervious lot coverage not exceeding 40%.
10. Lot 740 - A variance to permit impervious lot coverage not exceeding 40%.
11. Lot 750 - A variance to permit impervious lot coverage not exceeding 40%.
12. Lot 770 - A variance to permit impervious lot coverage not exceeding 40%.
13. Lot 780 - A variance to permit impervious lot coverage not exceeding 40%.
14. Lot 790 - A variance to permit impervious lot coverage not exceeding 40%.
15. Lot 730 - A variance to permit impervious lot coverage not exceeding 43%.

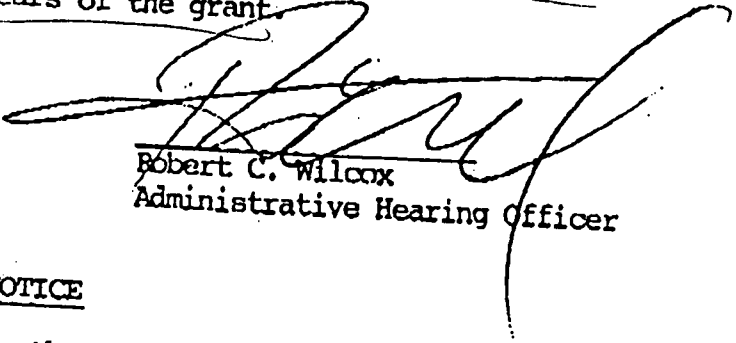
The foregoing variances are subject to the following conditions:

1. The applicants are to provide a buffer planting plan for a 25-foot buffer within each lot, (where applicable) along the water between the dwelling and the property line adjoining the water, or alternately, provide a 20-foot on site buffer, with an additional five feet on the common area along the water; or provide equivalent plantings elsewhere in the critical area of any lot not subject to the buffer requirement.
2. The applicants are to provide a bond in the amount of \$.40 per square-foot for the area of planting in the buffer as well as a signed notarized reforestation agreement. The planting plan is to be reviewed by the County Forester.
3. Impervious coverage to include driveway, walks, and other other impervious surface shall not exceed 40% of lot area, except Lot 730 which shall not exceed 5,000 square feet of lot area. The owner of Lot 730 shall mitigate for any impervious coverage exceeding 4,600 square feet (approximately 40%) by providing planting elsewhere in the subdivision on a 1:1 basis for all coverage exceeding 4,600 square feet up to 5,000 square feet.

4. As permits are applied for development of each of the lots, every effort should be made to reduce impervious coverage wherever possible.

FURTHER ORDERED that the applicants are hereby GRANTED a variance to Section 11-102.2 to the extent that the applicants shall obtain the necessary building permits within two (2) years and construction must be completed within three (3) years of the grant.

from March 12,
1993


Robert C. Wilcox
Administrative Hearing Officer

NOTICE

Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.

RECEIVED

JAN 17 2001

CHESAPEAKE BAY
CRITICAL AREA COMMISSION





Judge John C. North, II
Chairman



Ren Serey
Executive Director

**STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338

January 4, 2001

Mr. Kevin Dooley
Anne Arundel County Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2000-0419-V, Donald Morrisette

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit a dwelling with less setbacks and Buffer than required and with more impervious than allowed. The property is designated RCA and is currently undeveloped.

Provided this lot is properly grandfathered, this office does not oppose the siting of a single family dwelling on it. However, impacts must be minimized and the variance requested the minimum to provide relief. While the Buffer encompasses much of the lot, it does not appear that an attempt has been made to minimize impacts to the Buffer or to minimize impervious surfaces. While some variance may be warranted, it seems that the house could be pulled further away from the water. The house could also be redesigned such that an impervious surface variance would not be necessary. The variances requested simply are not the minimum to provide relief.

Also, please note, the proposed afforestation amount of 1582 square feet and the conceptual planting detail are not adequate mitigation for the proposed disturbance on this lot. Within Buffer Exempt Areas, mitigation is required at a 2:1 ratio for new impervious within the Buffer and at a 1:1 ratio for disturbance outside of the Buffer. At least some of the plantings should occur on site, **within the Buffer**. (As proposed, there is no room in the Buffer for any plantings.) At least some effort should be made to meet the intent of the regulations.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: AA624-00

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

Cover Memo
January 13, 2001

RECEIVED

JAN 17 2001

To: Lee Anne Chandler
Chesapeake Bay Critical Area Commission

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

From: Mike Farren
710 South River Landing
Edgewater, Maryland 21037

Subject: Variance – Donald Morrisette – 2000-0419-V
Prior Variance on Same Property – March 12, 1993

Ms. Chandler, enclosed is another copy of the March 12, 1993 variance.
The copy that I faxed to you last week was not that legible, and I thought a clearer copy may be more useful.


Mike Farren

CHESAPEAKE BAY CRITICAL AREA COMMISSION

1804 West Street, Suite 100
Annapolis, Maryland 21401

FACSIMILE TRANSMITTAL

TO: Lou Pazarro FAX: 410 222-7970
COMPANY: Aff Co. Inspections
FROM: LeeAnne Chandler
DATE: 8/6/01 TIME: 3:00 a.m. ☒ p.m. NO. PAGES: 9

COMMENTS:

Lou-

I've left you a voice mail regarding an ~~un~~ inspection you did @ 750 South River Landing in Edgewater. This variance decision outlines the parameters which were supposed to be followed in developing a number of lots ~ including #750. Could you please give me a call and let me know how the current conditions compare with the conditions placed on the variance approval? I can be reached at (410) 260-3477. Thank you!

-LeeAnne Chandler

RECEIVED

MAR 4 2002

FAX COVER SHEET

TO: LEEANNE CHANDLER
CHESAPEAKE BAY CRITICAL AREA COMMISSION
PHONE: 410-260-3477
FAX: 410-974-5338

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

FROM: J. MICHAEL FARREN
710 SOUTH RIVER LANDING
EDGEWATER, MARYLAND 21037-1554

DATE: MARCH 2, 2002

SUBJECT: MARCH 2, 2002 LETTER TO KERRY TOPOVSKI, CHIEF; SANITARY
ENGINEERING DIVISION & COMMUNITY HEALTH

NUMBER OF PAGES: COVER, PLUS 4 - see list below

LEEANNE, PLEASE FIND ATTACHED A LETTER SENT TO KERRY TOPOVSKI REGARDING THE
ENCROACHMENT OF FOOTINGS AND COURSES OF FOUNDATION CINDER BLOCK OUTSIDE THE
APPROVED SITE AND BUILDING PERMIT PLAN AND WITHIN THE 30 FEET RADIUS OF OUR
EXISTING WELL.

JUST WHEN WE THOUGHT IT COULD NOT GET ANY WORSE!!!!

THANKS IN ADVANCE FOR YOUR INTEREST.

MIKE

Attachments

- 1) Letter to Jay Leshinski 3/2/02
- 2) Letter to Kerry Topovsk. 3/2/02
- 3) Color Photo of 720 site as of 3/2/02
- 4) Copy of site plan used for grading
permit, well permit & building permit.

J. MICHAEL FARREN
710 SOUTH RIVER LANDING
EDGEWATER, MARYLAND 21037-1554

March 2, 2002

Faxed and mailed
on 3/2/02

Jay Leshinskie
Department of Planning & Code Enforcement
Permit Application Center
2664 Riva Road/P.O. Box 6675
Annapolis, Maryland 21401

Subject: **Permit Number B02171931; Grading Permit G02000B578;**
and **Tax # 1754-9004-5263**

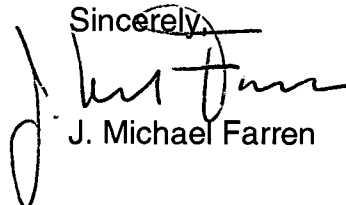
Dear Mr. Leshinskie:

Full footings and courses of foundation cinder blocks have already been constructed on Lot 720, which are outside the footing and foundation location as shown on the site and building plans as acted upon by the County with regard to the above cited permit numbers.

Attached is a photo that shows the footings and foundation cinder block as it exists today, March 2, 2002. The photo demonstrates that the footings and foundation extend out beyond the locations as depicted on the site plans that served as the basis for the variance, site plan permit, build permit plan, and well permit.

As you know, our Attorney is pursuing other issues associated with this construction. The matter I am bringing to your attention in this letter is yet another and immediate violation of the variance and county requirements.

It is important that your Department investigates and addresses this specific matter immediately.

Sincerely,

J. Michael Farren

C: Attorney Harry Blumenthal

J. MICHAEL FARREN
710 SOUTH RIVER LANDING
EDGEWATER, MARYLAND 21037-1554

March 2, 2002

Faxed and mailed
on 3/2/02

Kerry Topovski, Chief
Sanitary Engineering Division &
Community Health
J. Howard Beard Health Services Building
3 Harry S. Truman Parkway
Annapolis, Maryland 21401

Subject: **Permit Number - B02171931 and Tax # 1754-9004-5263**

Dear Chief Topovski:

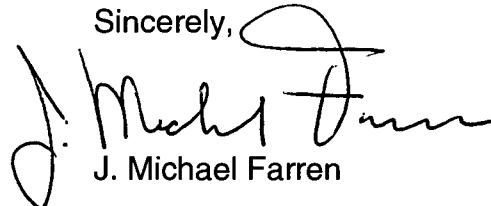
I am concerned with the construction that has been initiated on lot 720 of South River Landing, Edgewater, Maryland 21037, which is not consistent with the site plan (attached) that is the basis of the well permit, variance, site plan permit, and building permit plan.

A full footing with courses of cinder block has been constructed beyond the approved footing and foundation location on the site plan, which brings the footing and foundation within the 30' radius of our well at 710 South River Landing. The attached photo shows the existing construction, which extends beyond the approved location on the site plan that was the basis of the well permit as issued by your office.

Attached is some of the earlier correspondence that we have had on this issue, which more fully expresses our concerns with the impact on our existing well from the Lot 720 construction.

I am asking for your urgent attention to this matter. My home phone is (410) 956-0919 and my office phone is (202) 414-1285.

Sincerely,



J. Michael Farren

C: Attorney Harry Blumenthal
Jay Leshinskie, Permit Application Center
Tom Gruver, Well Department

720 South River Landing

Picture Taken:
March 2, 2002
(from lot 710 looking east)

Building Permit:
B02171931

Grading Permit:
G02000B578



Note: Worker is standing
on unauthorized
foundation section, and
to the left of the approved
foundation corner.

FAX COVER SHEET

TO: LEEANNE CHANDLER
CHESAPEAKE BAY CRITICAL AREA COMMISSION
PHONE: 410-260-3477
FAX: 410-974-5338

FROM: J. MICHAEL FARREN
710 SOUTH RIVER LANDING
EDGEWATER, MARYLAND 21037-1554

DATE: MARCH 2, 2002

SUBJECT: MARCH 2, 2002 LETTERS TO KERRY TOPOVSKI, CHIEF; SANITARY
ENGINEERING DIVISION & COMMUNITY HEALTH AND JAY LESHINSKIE, COUNTY
PERMIT CENTER.

NUMBER OF PAGES: COVER, PLUS 10

LEEANNE, PLEASE FIND ATTACHED A LETTER SENT TO KERRY TOPOVSKI AND JAY
LESHINSKIE REGARDING THE ENCROACHMENT OF FOOTINGS AND COURSES OF FOUNDATION
CINDER BLOCK OUTSIDE THE APPROVED SITE AND BUILDING PERMIT PLAN. THE
UNAPPROVED FOUNDATION IS WITHIN THE 30 FEET RADIUS OF OUR EXISTING WELL.

JUST WHEN WE THOUGHT IT COULD NOT GET ANY WORSE!!!!

THANKS IN ADVANCE FOR YOUR INTEREST.

MIKE

P.S. The photo of the site has been mailed
to you via "priority mail" and should arrive
on Monday

**J. Michael Farren
710 South River Landing
Edgewater, Maryland 21037-1554**

February 19, 2001

Ms. Kerry Topovski, Chief
Sanitary Engineering Division &
Community Health
Department of Health
J. Howard Beard Health Services Building
3 Harry S. Truman Parkway
Annapolis, Maryland 21401

Subject: Case #2000-0419V: Donald Morrisette

Dear Ms. Topovski:

Thank you for your letter of February 7, 2001 and for providing me with a copy of your January 11, 2001 memorandum to the Office of Planning and Code Enforcement, which "recommends denial of the above referenced variance request." As you may know, following the January 25, 2001 hearing, the Administrative Hearing Officer approved the variance request through an order issued on February 12, 2001. The February 12, 2001 order states that:

"The applicant shall revise the configuration of the deck to eliminate encroachment within the 30 feet of the well for Unit 710 unless the Health Department approves a waiver."

The variance, as approved, applies to a site plan that was first submitted at the start of the January 25, 2001 hearing. The site plan, therefore, was not available for review by your office or adjacent property owners prior to the hearing. The revised site plan was submitted at the hearing along with an alternative plan described as not requiring a Health Department waiver to the 30 feet setback requirement for water supply wells.

As the owner of Unit 710, I oppose any waiver that would allow encroachment by Unit 720's lot improvements or structures within the 30 feet setback for my water supply well.

Based on the description of the alternative site plan, as presented at the January 25th hearing, a plan already exists to proceed with the lot's development without a waiver to the 30 feet setback requirement to my existing well. In addition, the variance order of February 12th specifically recognizes the ability of the applicant to revise the configuration of the deck to eliminate encroachment within the 30 feet well setback.

My opposition to a waiver from the 30 feet setback requirement is based on the danger that the development of the adjacent lot (Unit 720) will impair or destroy the use of my existing water supply well. That danger is exacerbated by factors which may make it impossible or exorbitantly expensive to develop a new well should the existing well become unusable. The 30 feet well setback requirement should constitute the minimum distance between my existing well and the excavations associated with the development of Unit 720.

Factors prompting my opposition to a Unit 720 well setback waiver include:

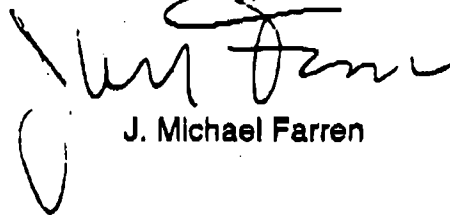
- During home construction on a nearby lot in 1997 my well (Unit 710) was fouled by heavy sediment, rendering the water unusable on a temporary basis. In the several years since that time, however, my well has operated normally.
- Within the last year nearby homeowners, Mr. and Mrs. Dunsay (Unit 770), had as many as four wells fail requiring replacement wells to be drilled.
- When I applied for a well permit in 1997, the Health Department restricted the location for a replacement well on my property (Unit 710) to the river side due to the existence of a pressurized sewer on the road side of the property.
- Locating a well on the river side will become impossible once construction starts on Unit 720 since no path of access will exist for a drilling rig that is unimpeded by structures. Access for drilling equipment could be provided, if feasible, only through the costly use of a ship or barge. The shallow water fronting the property, however, likely would render this option infeasible. The impeded access for well drilling equipment to the river side was acknowledged at the January 25th hearing when it was stated that the well for Unit 720 will need to be drilled on the river side before construction begins.
- Existing wells with less than 30 feet setbacks on adjacent properties involve wells installed on the property of the homeowner seeking the waiver and with the structures on adjacent properties already constructed.
- The site plans submitted by the applicant at the January 25th hearing did not include any structural encroachment within the 30 feet setback requirement for the proposed well of Unit 720 itself. Only my existing well on the adjacent lot of Unit 710 was encroached, thereby requiring a waiver.
- Both the February 12th order granting the variance and the alternative plan submitted by the applicant at the January 25th hearing validate and, in fact, anticipate that the Unit 720 property can and will be developed without a well setback waiver by the Health Department.

At bottom, the requestor would be seeking permission to encroach on an adjoining property owner's existing water supply well. This is quite different than a requestor seeking to encroach on the requestor's own proposed water supply well. In this case, the risk of adversely affecting a water supply well would not be borne by the requestor, but rather would be imposed on me, the adjoining homeowner. This is not fair. For me, the situation is worsened by the fact that existing circumstances at best limit, or at worst prohibit, the ability to reposition my well should the proposed construction adversely affect water supply quality.

I urge you to deny any setback waiver application for Unit 720, based on the risk arising from a setback waiver on the continued operation of my existing water supply well, along with the cost and burdens that the drilling of a new well for Unit 710 will entail once construction starts, and the existence, as well as, the formal submission at the January 25th hearing of an alternative plan that eliminates any encroachment.

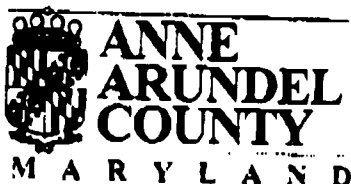
Please let me know if any process or procedure exists to more formally oppose or object to a setback waiver application by an adjacent property owner.

Sincerely,



J. Michael Farren

C: Tom Gruver
Harry Blumenthal



DEPARTMENT OF HEALTH
J. HOWARD BEARD HEALTH SERVICES BUILDING
3 HARRY S. TRUMAN PARKWAY
ANNAPOLIS, MARYLAND 21401
(410) 222-7103
FAX 410-222-7678
TDD for the hearing impaired: (410) 222-7163
www.sehealth

FRANCES B. PHILLIPS, R.N., M.H.A.
Health Officer

J. Michael Farren
710 South River Landing
Edgewater, MD 21037

February 7, 2001

RE: Case #2000-0419-V

Dear Mr. Farren,

I am writing you in response to your letter of January 8, 2001 in which you expressed concern regarding the above referenced variance request. After reviewing the issues raised in your letter, the Anne Arundel County Department of Health sent revised comments to Cindy White of the Office of Planning and Zoning, clarifying our position on the proposed variance. (see attached)

It is my understanding that revised plans were submitted to the hearing officer at the January 25, 2001 variance hearing. The revised plans have not yet been submitted to the Anne Arundel County Department of Health for review or comment, so at this point in time, our comments of January 11, 2001 remain unchanged.

If you have any questions, or need further assistance in this matter, please contact Mr. Tom Gruver of the well department at 410-222-7274 between the hours of 7:30 am and 4:00 pm.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kerry Topovski".

Kerry Topovski, Chief
Sanitary Engineering
Division of Community &
Environmental Health

KT/sar

624-00

RECEIVED

FEB 14 2001

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2000-0419-V

IN RE: **DONALD MORRISSETTE, CONTRACT PURCHASER**

FIRST ASSESSMENT DISTRICT

DATE HEARD: JANUARY 25, 2001

ORDERED BY: **STEPHEN M. LeGENDRE**, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: **SUZANNE DIFFENDERFER**

DATE FILED: FEBRUARY 17, 2001

PLEADINGS

Donald Morrisette, the contract purchaser, seeks a variance (2000-0419-V) to permit a dwelling with less setbacks and buffer and with more impervious coverage than allowed on property located along the northeast side of South River Landing Road, northeast of Fair Lea Drive, Edgewater.

PUBLIC NOTIFICATION

The case was advertised in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 175' of the property was notified by mail, sent to the address furnished with the application. Mr. Morrisette testified that the property was posted on January 6, 2001. I find and conclude that the requirements of public notice have been satisfied.

FINDINGS AND CONCLUSIONS

This case concerns unimproved property with a street address of 720 South River Landing Road, in the subdivision of South River Landing, Edgewater. The property comprises 10,547 square feet and is zoned R-5 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). This is a nonwaterfront lot which is separated from the South River by a strip of community property. The applicant seeks to develop the site with a single-family

dwelling located 40 feet from the bulkhead and occupying 4,200 square feet of impervious surfaces (that is, 40 percent of the lot area).¹

The Anne Arundel County Code, Article 28, Section 1A-104(a)(1) establishes a minimum 100-foot buffer landward from the mean high-water line of tidal waters. Section 1A-105 limits impervious coverage to 31.25 percent. Accordingly, the proposal necessitates a buffer variance of 60 feet and a variance to increase impervious coverage to 40 percent.

Suzanne Diffenderfer, a zoning analyst with the Office of Planning and Zoning, testified that the property is a grandfathered lot in an approved condominium subdivision. The witness reported that South River Landing was designed so that the lots are not waterfront, with a 25-foot planted buffer as common area. In Cases No. V-26-93 through V-30-93, Lot 720 and 14 other lots received variances for less buffer and greater impervious coverage. All of the other lots have been developed with single-family homes. The approval for Lot 720 has expired and applicant has refiled for the same relief. Other than the installation of the bulkhead, the character of the site (grassy) is unchanged. She considered the proposal wholly consistent with neighborhood construction. The Chesapeake Bay Critical Area Commission requested minimization and mitigation

¹The record contains three site plans identified as "original", "revised" and "alternate". The original plan was submitted with the application; the revised and alternate plans were submitted at the hearing. The only difference between the revised and alternate plans is the configuration of the waterside deck. A corner of the deck on the revised plan falls within 30 feet from the well on Unit No. 710 to the west. Because the Health Department insists on a 30 foot setback to any well, the alternate plan deletes the portion of the deck within the well setback.

at a 2:1 ratio for new impervious surfaces within the buffer and at a 1:1 ratio for disturbance beyond the buffer; with some of the plantings on site within the buffer.

The witness discussed the possibility of relocating the dwelling nine feet closer to the street to the minimum building restriction line. In her view, the location of the improvement on the alternate site plan is in line with Unit 710.² By way of ultimate conclusion, she supported the application, subject to a showing that the relief has been minimized.

Ron Johnson, a professional engineer in the applicant's employ, testified that the subdivision is developed with 82 cluster lots with an average lot size of 10,000 square feet and an average house size of 5,000 square feet. The applicant's lot measures 82 feet wide by 130 feet deep. It is severely impacted by the 100-foot buffer. The lot would be "next to impossible" to develop with a dwelling, well and stormwater management device absent variances. The witness opined that all of the variance standards are satisfied. He indicated that the revised site plan is consistent with the 1993 variance. The prior approval required a 25-foot buffer. The revised plan replants a 20-foot strip onsite and an additional five feet in the common area. The witness offered two rationales for locating the deck on the revised plan within the 30-foot setback to the well for Unit 710. First, Unit 710 is about the same distance to the same well; second, the Health Department may

²Unit 730 to the east is closer to the river than Unit 710.

authorize a waiver. He indicated that the revised site plan incorporates an oversized storm water management trench on the street side of the dwelling which meets the required setbacks, including a separation of 50-feet from the nearest well. The trench will receive the water from the roof area on the street side of the dwelling. The device cannot be placed on the waterside of the dwelling due to the proximity of the proposed well. Unit 720 is the only unit which includes stormwater management.

The witness was questioned on cross-examination by counsel representing J. Michael and Mary Margaret Farren, who are the owners of Unit 710. Mr. Johnson acknowledged that the original site plan showed a smaller footprint for the dwelling as compared to the revised plan (2,928 square feet vs. 3,343 square feet). The change resulted from the replacement of the original "generic" design with the current architectural design. The total proposed impervious area is the same for both designs (4,200 square feet). The witness testified that he did not know whether the architectural design can be relocated to the minimum building restriction line from the street while still siting the stormwater management device in accordance with the required setbacks. He scaled the distance to the water for the revised design (including the deck) and the adjacent dwellings as follows:

Unit Number	Distance
710	51 feet
720	41 feet

On cross-examination by Barnett Q. Brooks, who own Unit 730, Mr. Johnson testified that the first order of business in developing the property is the siting of the well. In the event the proposed location is unsuccessful, the well will be relocated elsewhere on the waterside of the dwelling, or perhaps to the common area. In any event, absent a satisfactory well, the site cannot be developed.

Mr. Morrisette testified that he has resided in a 5,100 square foot unit (Unit 750) for five years. He hopes to develop Unit 720 for his ailing 87-year-old mother. He reiterated that the proposal is consistent with the approval granted in 1993. On cross-examination, he resisted the suggestion that the dwelling could be relocated closer to the street while still accommodating the well and the stormwater management device. Although the revised plan is his first preference, he would rather substitute a patio for the waterside deck than relocate the dwelling closer to the road.

Gail Reed, an environmental consultant to the applicant, supplied a Critical Area report. She stated that there are no significant resources on the property. Unlike the neighboring sites, the revised site plan includes a 25-foot buffer to the river. She predicted no adverse impacts from the project; and in particular no erosion at the bulkhead, no impact on waterfowl and no impact on submerged aquatic vegetation. The witness reiterated that the variance standards are

³Unit 730 is located on a point.

achieved. She suggested that relocating the dwelling closer to the road would compromise an alternative well site should one be necessary. On cross-examination, she clarified that the revised site plan could accommodate a well on the street side by gloving the pressurized sewer.

David Riegel, the applicant's architect, testified that the site, like the neighboring properties, is difficult to develop. The witness designed eight or nine of the adjoining dwellings. The typical size is 4,000 to 5,000 square feet on two floors. The proposed dwelling falls in the middle of the range. He opined that a design that would satisfy the impervious surface limitation would produce an uncharacteristically small home.

Mr. Farren's testimony was proffered without objection. He does not oppose the requested variance to impervious coverage. However, he objects to the siting of the dwelling due to the impacts on his privacy and view. He would like the dwelling to be relocated nine feet closer to the street. He disputed the possibility that the well could be located on the street side based on his own experience. When he encounter difficulty in siting his well, he sought the approval of the Health Department to locate it on the street side. He was refused due to the proximity to the pressure sewer.

Mr. Brooks testified that he has no particular objection to the design, but thinks the house should be closer to the road. He stated that the subdivision has experienced a continuing erosion problem along the bulkhead. In the circumstances, he believes it is necessary to give consideration to controlling

runoff to the river.

At this juncture, Mr. Farren confirmed that the residents and the Board of Directors have engaged in filling a number of sink holes adjacent to the bulkhead.

I visited the site and the neighborhood. Unit 720 is at a bend in the road with a comparatively narrow frontage. The property slopes gently down to the river. South River Landing is a gated community of substantial two and three level brick homes, with no shortage of architectural features. The houses to the west of the site are at or near the minimum building restriction line from the street. Mr. Brooks' home is substantially deeper on its lot.

The standards for granting variances are contained in Section 11-102.1. Under subsection (b), for a property in the Critical Area, a variance to the Critical Area program requirements may be granted only after determining that (1) due to unique physical conditions, peculiar to the lot, a strict implementation of the program would result in an unwarranted hardship to the applicant; (2) a literal interpretation of the program will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area; (3) the granting of the variance will not confer on the applicant any special privilege that would be denied by the program to other lands within the Critical Area; (4) the variance request is not based on circumstances resultant of actions by the applicant and does not arise from conditions relating to land use on neighboring property; and (5) the granting of the variance will not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area and will be

in harmony with the general spirit and intent of the program. Under subsection (c), any variance must be the minimum necessary to afford relief; and its grant may not alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare.

In Anne Arundel County, Critical Area variances are measured against the unwarranted hardship standard. The issue is whether the denial of the application is a denial of "reasonable and significant use." Belvoir Farms Homeowners Association, Inc., v. North, 355 Md. 259 (1999). The factors enumerated in the variance statute "cannot be construed individually to overrule a finding of unwarranted hardship..." White v. North, 356 Md. 31 (1999).

This case aptly illustrates a disturbing trend. Critical Area cases, particularly cases involving prime lots, frequently pit the applicant against his future neighbors. The stakes are high. The antagonists seek to maximize their substantial investments and they have the resources to pursue and protect their competing interests. The duty of the regulators – including this office – is to ensure that the laudatory goals of the program are not lost in the shuffle.

The applicant's guiding light is that he seeks to duplicate the original approval. The protestants contend that the intervening pattern of development is paramount. When the smoke clears, the major point of contention among the participants is whether to site the dwelling 40 feet from the shore or as much as 49

feet from the shore.⁴

The resolution of this case is complicated by the uncertainty concerning the ultimate location of the water well. As I understand the competing contentions, the applicant and his experts insist they cannot move the dwelling closer to the street because the well may have to go there. Mr. Farren insists that the street side is unavailable for the well. For reasons that do not appear in the record, the matter of locating the well has not been resolved. The obligation to locate the well rests with the applicant. He should not be penalized for failing to meet his obligation; nor can he be rewarded. I must assume that the well will be installed on the waterside of the dwelling.⁵ If it turns out that the well must go elsewhere, then the applicant will need to reevaluate the plan and may face another hearing in this office. Absent consideration for the well on the street side of the dwelling, the applicant is obligated to maximize the buffer to the South River. Accordingly, the dwelling shall be relocated to the minimum street setback; thereby reducing the variance to the buffer to 51 feet. The modification will decrease the extent of conflict between the deck and Mr. Farren's well. And there may be enough room on the waterside of the dwelling for a small stormwater management device to

⁴The prior decision by this office does not resolve the conflict. Although the prior applicant sought a variance to allow greater impervious coverage and less buffer than required, the Order limits the approval to the coverage aspect of the case.

⁵It is not unreasonable to assume that the well will be installed on the waterside given the testimony of Ms. Reed and Mr. Farren. Ms. Reed testified that there is generally no problem hitting water, just problems with saltwater intrusion (resolved by grouting) or depth (resolved by continued drilling). Mr. Farren testified without contradiction that the Health Department disallowed his request for a street side well due to the proximity of the sewer.

catch the roof drains from the waterside of the dwelling, thereby reducing the potential of erosion to the South River. The modification will also cause a slight reduction in impervious coverage because the driveway will be nine feet shorter. So modified and conditioned, I find and conclude that the variance satisfies the criteria in Section 11-102.1.

ORDER

PURSUANT to the application of Donald Morrisette, petitioning for a variance to permit a dwelling with less setbacks and buffer and with more impervious coverage than allowed; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 12th day of February, 2001,

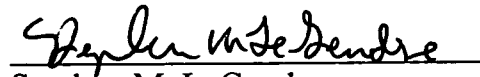
ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is hereby **granted** a modified variance to permit a dwelling configured in accordance with the revised site plan 51 feet from the water and a variance to permit up to 40 percent impervious coverage.

The foregoing variances are subject to the following conditions:

1. The applicant shall revise the site plan to relocate the dwelling to the 15-foot building restriction line adjacent to the street.
2. The applicant shall provide stormwater management. The stormwater management shall include collection of the roof leaders on the water side of

the dwelling, unless the applicant demonstrates to the satisfaction of the Permit Application Center and the Health Department that there is no practicable design that will allow collection of the waterside roof leaders.

3. The applicant shall revise the configuration of the deck to eliminate encroachment within 30 feet of the well for Unit 710 unless the Health Department approves a waiver.
4. The applicant shall provided mitigation at 2:1 ratio for new impervious surfaces within the buffer and at a 1:1 ratio for disturbance outside the buffer.
5. The applicant shall provide a buffer planting plan for a 25-foot buffer within the lot, or alternately, a 20-foot buffer onsite with an additional five feet on the common area along the water.


Stephen M. LeGendre
Administrative Hearing Officer

NOTICE TO APPLICANT

Within thirty (30) days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

Further, Section 11-102.2 of the Anne Arundel County Code states:

A variance granted under the provisions of this Article shall become void unless a building permit conforming to the plans for which the variance was granted is obtained within one year of the grant and construction is completed within two years of the grant.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.

624-00

IN RE: * ANNE ARUNDEL COUNTY
DONALD MORRISSETTE * ADMINISTRATIVE HEARINGS
FIRST ASSESSMENT DISTRICT * CASE NO. 2000-0419-V

* * * * *

AMENDED ORDER

For good cause shown in a letter dated February 28, 2001 (Attachment A),
the Memorandum and Order dated February 12, 2001 is revised as follows:

On Page 10, Order, the third full paragraph is revised to read:

ORDERED, by the Administrative Hearing Officer of Anne Arundel
County, that the applicant is hereby **granted** a modified variance to permit a
dwelling configured in accordance with the revised site plan 49 feet from the
water and a variance to permit up to 40 percent impervious coverage;

In all other respects the Memorandum and Order are unchanged;

So Ordered, this 5th day of March, 2001,

Stephen M. LeGendre
Stephen M. LeGendre
Administrative Hearing Officer

RECEIVED

MAR 6 2001

CHESTER BAY
CRITICAL AREA SECTION

SIMCOX AND BARCLAY, LLP

ATTORNEYS AT LAW

2881 RIVA ROAD-SUITE 820
ANNAPOLIS, MARYLAND 21401

DAVID C. BARCLAY
JOHN S. SIMCOX
JENNIFER L. CRESWELL
CHRISTOPHER J. YOUNG

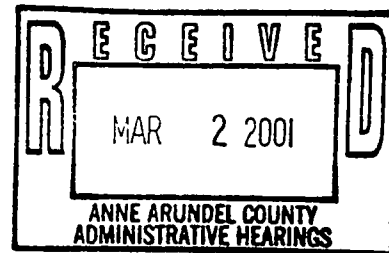
KAREN M. CRABTREE
OF COUNSEL

February 28, 2001

(410) 266-0810 (ANNAPOLIS)
(410) 841-2885 (BALTIMORE)
(301) 281-8070 (WASHINGTON)
(410) 266-0813 (FAX)
JSSDCB@SIMCOXANDBARCLAY.COM

Anne Arundel County
Office of Administrative Hearings
Arundel Center
Annapolis, Maryland 21401

Attn: Stephen M. LeGendre
Administrative Hearing Officer



Re: In Re: Donald Morrisette, Contract Purchaser
Case No.: 2000-0419-V
Our File No.: 721.01

Dear Mr. LeGendre:

This letter is to request a Memorandum of Revision of Conclusions in the referenced matter, pursuant to Article 28, Section 16-211, of the Anne Arundel County Code, to correct a clerical error in the Order of February 12, 2001 granting a modified variance to Donald Morrisette in connection with Unit 720 South River Landing. At issue is the provision of the Order which permits "a dwelling configured in accordance with the revised site plan 51 feet from the water" See Order of Feb. 12, 2001, p. 10 (emphasis added). It appears that this provision was meant to read "49 feet," rather than "51 feet," from the water because (1) it is not possible to comply with this Order as written, and (2) this provision of the Order conflicts with the Findings and Conclusions preceding it.

The Order cannot be complied with as written because the dwelling, as it is configured in the revised site plan, cannot be relocated to bring it back 51 feet from the water. The dwelling will have to be shortened by at least 1 foot if it is required to be located 51 feet from the water because it can only be moved back 9 feet—to the 15 foot street-side set back. (If the dwelling, as it is configured in the revised site plan, is relocated to the 15 foot street-side set back it will be between 49 and 50 feet from the water, not 51 feet.) Moreover, the requirement that the dwelling be 51 feet from the water is inconsistent with the following two provisions of the Findings and Conclusions:

1. The Findings and Conclusions state that "the major point of contention among participants is whether to site the dwelling 40 feet from the shore or as much as 49 feet from the shore." Id. at pp. 8-9.
2. The Findings and Conclusions further state that the "dwelling shall be relocated to the minimum street setback; thereby reducing the variance to the buffer to 51 feet." Id. at p. 9 (emphasis added).

SIMCOX AND BARCLAY, LLP

Anne Arundel County
Attn: Stephen M. LeGendre, Administrative Hearing Officer

Page 2
February 28, 2001

If the dwelling is permitted to intrude into the buffer by 51 feet, as set forth in the Findings and Conclusions, the dwelling will be located 49 feet from the water. If, however, the dwelling is required to be located 51 feet from the water, the variance to the buffer is effectively reduced to 49 feet.

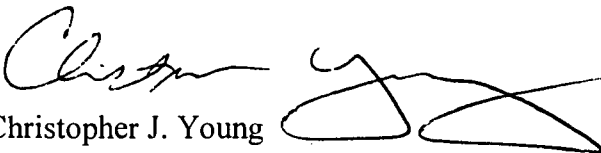
The difference between 49 feet and 51 feet is of critical importance here because it impacts the applicant's ability to place a stormwater management facility on the street side of the dwelling. The engineer Ron Johnson testified at the hearing that "he did not know whether the architectural design can be relocated to the minimum building restriction line from the street while still siting the stormwater management device in accordance with the required setbacks." Id. at 4. The inadvertent reduction of the variance to the buffer from 51 feet to 49 feet may make it impossible to site the stormwater management device on the street side of the dwelling.

For all of the reasons set forth above, we request a Memorandum of Revision of Conclusions to correct the clerical error described herein. The applicant specifically requests that page 10, paragraph 3, of the Order be rewritten to state:

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that applicant is hereby **granted** a modified variance to permit a dwelling configured in accordance with the revised site plan 49 feet from the water and a variance to permit up to 40 percent impervious coverage.

Thank you for your consideration of this matter.

Sincerely,



Christopher J. Young
Attorney for Donald J. Morrisette

cc: Donald J. Morrisette
750 South River Landing
Edgewater, Maryland 21037

Barnett Q. Brooks
730 South River Landing
Edgewater, Maryland 21037

Michael and Mary Margaret Farren
c/o Harry C. Blumenthal
170 Jennifer Road, Suite 240
P.O. Box 6484
Annapolis, Maryland 21401

Judge John C. North, II
Chairman



Ren Serey
Executive Director

**STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338

March 28, 2002

Mr. Frank Ward
Permit Application Center
3664 Riva Road, MS
Annapolis, Maryland 21401

RE: Morrisette Property at 720 South River Landing, Edgewater

Dear Mr. Ward:

I am writing to inquire about the development activities at 720 South River Landing in Edgewater. This office commented on a variance request for this property in January 2001. Since that time, we have been contacted numerous times by concerned individuals regarding development of the property. These individuals understood that the property was permitted to be developed in accordance with the variance granted by the Administrative Hearing Officer. The concerns came in part from unauthorized activities that occurred at 750 South River Landing, another property owned by the same people. While perhaps a separate issue, these unauthorized activities included construction of patios (in violation of the 40% impervious limit set by a 1993 variance decision) and construction of stone walls and steps within community property, wholly within the Buffer (also in violation of the variance decision). Commission staff contacted the County enforcement office and inquired about these violations. We were told that despite the specific conditions of the variance decision, permits were not needed for those activities and essentially, because some time had passed, there would not be any reparation. However, after we expressed concern about the upcoming development of 720 South River Landing, the inspector reassured us that they would be especially diligent in their subsequent inspections.

Notwithstanding these issues, the property owners applied for grading permits for 720 South River Landing. County staff told us that they had to resubmit their plans two additional times due to discrepancies between their plans and the conditions placed on the variance approval. Most recently, we were contacted again in response to the start of construction. We received plans that indicated there were problems with the building permit related to the fill and grading around the dwelling. In addition, footers were being dug beyond the approved footprint of the dwelling (and into the radius of a neighbor's well). This also is in violation of a specific condition placed on a variance.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Mr. Frank Ward
March 28, 2002
Page 2

This office is extremely concerned about this situation. We are particularly concerned about the enforcement of conditions placed on variances by the Administrative Hearing Officer. These conditions are often the only means of ensuring that the granting of a variance is consistent with the spirit and intent of the Critical Area Program. We would appreciate your assistance in clarifying what has occurred on this site and how these problems are being addressed.

Thank you for your attention to this matter. I may be reached at (410) 260-3460 if you would like to discuss these matters further.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler". The signature is written in dark ink and includes a long, horizontal flourish at the end.

LeeAnne Chandler
Natural Resources Planner

Cc: Stephen M. LeGendre, Esq.
Michael Farren, Esq.
Mr. Leonard Muller
Marianne Mason, Esq., Assistant Attorney General
Mr. Ren Serey, Executive Director

UNIT # 740

ATING REQUIREMENTS

REA = 4,200 S.F.
 WITHIN 100' BUFFER = 2,575 S.F.
 OF THE 100' BUFFER = 1,625 S.F.
 MITIGATION REQUIREMENT OF 15% OF TOTAL SITE = 1,582 S.F.

41-0-222
35-222
35-222

REQUIRED 6,775 S.F. (INCL. 15% AFF. REQ.)

IN PLANTING BUFFER FOR MITIGATION = 2,138 S.F.

REQUIREMENTS FOR THIS SITE WILL BE MET BY A COMBINATION OF ON-SITE MITIGATION OR FEE IN LIEU AT TIME OF PERMIT FOR THE WORKING REQUIRED.

BREAKDOWN OF IMPERVIOUS

PROPOSED HOUSE

3,343 S.F.

PROPOSED DRIVEWAY

578 S.F.

PROPOSED SIDEWALK/FRONT STOOP

279 S.F.

TOTAL PROPOSED IMPERVIOUS AREA	
IMPERVIOUS AREA	4,200 S.F.
PERVIOUS AREA	279 S.F.

IMPERVIOUS AREA WITHIN 100' BUFFER = 4,200 S.F.
IMPERVIOUS OUTSIDE THE 100' BUFFER = 2,575 S.F.

IMPERVIOUS OUTSIDE THE 100' BUFFER = 1,625 S.F.

40%

* 56' Duppe Vianee.

SOUTH RIVER LANDING IS
NORMALLY REQUIRED 100' SETBACK

A CD ZONING

REQUIRED AFFORESTATION ** AND ***		PROPOSED IMPERVIOUS
S.F.		4,200 S.F.

ED ONSITE IN THE BUFFER.
OUS WITHIN THE 100' BUFFER AND 1:1 FOR NEW
BE CREDITED TOWARD THE AFFORESTATION REQUIREMENT.

PLAN SCALE: 1"=20'

* PLANTING REQUIREMENTS

TOTAL IMPERVIOUS AREA = 4,200 S.F.
IMPERVIOUS AREA WITHIN 100' BUFFER = 2,575 S.F. 2:1 MITIGATION REQUIRED
IMPERVIOUS OUTSIDE THE 100' BUFFER = 1,625 S.F. 1:1 MITIGATION REQUIRED
STANDARD AFFORESTATION REQUIREMENT OF 15% OF TOTAL SITE = 1,582 S.F.

CALCULATION:

2575 X 2 = 5,150 S.F.
1625 X 1 = 1,625 S.F.

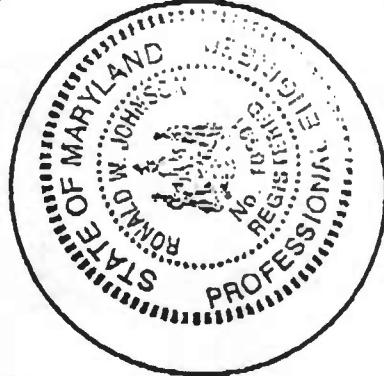
TOTAL PLANTING REQUIRED 6,775 S.F. (INCL. 15% AFF. REQ.)

AREA AVAILABLE WITHIN PLANTING BUFFER FOR MITIGATION = 2,139' S.F.

PLANTING REQUIREMENTS FOR THIS SITE WILL BE MET BY A COMBINATION OF ON-SITE
MITIGATION AND OFFSITE MITIGATION OR FEE IN LIEU AT TIME OF PERMIT FOR THE
6,775 S.F. OF PLANTING REQUIRED.

on· Associates, Inc.
s. Surveyors

20 Annapolis, MD 21401
1.841.5124



Environmental Services of Gale J. Reed
25966 Foxgrape Road
Greensboro, Maryland 21639

Ronald W. Johnson Associates, Inc.
Building 400, Suite 420
2661 Riva Road
Annapolis, Maryland 21401

Chesapeake Bay Critical Area Report

Unit 720, South River Landing
Edgewater, Maryland

September 2000

Contact Telephone No.: 401-266-6612

RECEIVED

DEC 6 2000

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Chesapeake Bay Critical Area Report

Unit 720, South River Landing
Edgewater, Maryland

Site Description: This parcel is a waterfront building lot located in the residential community of South River Landing. South River Landing is located along the southern shore of the South River in Edgewater, Maryland. Unit 720 is bounded by the South River to the north, existing homes to the east and west, and a roadway to the south. The shoreline is bulkheaded. The site is completely covered with grass. There is no other vegetation present.

100-Year Floodplains: Panel 47 of the Flood Insurance Rate Maps for Anne Arundel County maps this property's shoreline area as part of the 100-year floodplain encompassing the South River. The projected flood elevation is 7 feet without velocity. (It should be noted that the entire shoreline of South River Landing is now bulkheaded and backfilled. Therefore, this mapping would appear to be inaccurate at this location.)

Nontidal/Tidal Wetlands: No tidal or nontidal wetlands were observed on or adjacent to this property. The South River Quadrangle of the National Wetlands Inventory does identify the presence of a intertidal beach-bar (E2BBN) beyond the bulkhead in the South River.

Other Aquatic Resources: The Aquatic Resources Areas Handbook prepared by the Maryland Department of Natural Resources does not indicate the presence of either shellfish beds or finfish spawning areas off the shoreline of this property. Common finfish species found in the waters of the South River include white perch, striped bass, American eel, oyster toadfish, rough silversides, spot, Atlantic croaker, white catfish, channel catfish, blueback herring, alewife, Atlantic menhaden, toadfish, sheepshead minnow, mummichog, striped killifish, Atlantic needlefish, hogchoker, fourspine stickleback, northern pipefish, Atlantic silverside, tidewater silverside, naked gobi, and striped blenny.

The 1998 and 1997 Submerged Aquatic Vegetation Surveys flown by the Virginia Institute of Marine Science map scattered patches of horned pondweed along the bulkhead of this community.

Soils: Panel 27 of the Soil Survey for Anne Arundel County indicates the presence of Monmouth fine loamy sand (MvB2) with slopes of 2 to 5 percent on this parcel. This soil series is described by the Survey as "deep and well-drained". The erosion factor K for this soil is .43 from 0 to 40 inches and .24 from 40 to 60 inches in depth.

Mitigation/Minimization: During construction, stormwater management structures will be used in accordance with Anne Arundel County regulations to minimize run-off. Roof run-off on neighboring homes is infiltrated and most probably, the roof run-off from the proposed home on this site will be similarly disposed. The 100-foot buffer from the shoreline will be maintained as much as possible. ?

Site Plan: The site plan for this report was prepared by Ronald W. Johnson Associates, Inc.

Fieldwork: The fieldwork for this report was conducted by Gale J. Reed, Biologist, during September 2000.

Proposed Improvements/Impervious Coverage/Setbacks: As stated above, Unit 720 is located in the community of South River Landing located on the South River in Edgewater, Maryland. South River Landing is a condominium development and is zoned R5. The subdivision was designed so that no lot was waterfront, and large areas of open space or common areas were provided as green space. As noted on the subdivision plat, the lot is subject to R5 cluster setbacks, which are shown graphically on the attached site plan. In addition, this lot is subject to a 100 foot tidal buffer from the South River. Impervious coverage permitted by Code for Unit 720, which contains 10,547 square feet in area, is 31.25% or 3,296 square feet.

As part of the variance request for which this report has been prepared, the applicant is requesting that the allowable impervious coverage be increased to 40% or 4,219 square feet. This increase is in keeping with the other existing homes in the community which range between 4,000 and 5,000 square feet in total floor area, and impervious coverage approaching 40%. At present time, the lot is entirely cleared and no impervious area exists. The proposed impervious coverage as shown on the site plan is as follows:

Proposed house	2,928 square feet
Proposed driveway	814 square feet
Proposed walkways	123 square feet
<u>Proposed patio/deck</u>	<u>335 square feet</u>
Total Impervious	4,200 square feet

The second portion of the variance request is to permit new development within the required 100 foot tidal buffer. As demonstrated by the site plan, the proposed structure meets the R5 cluster setbacks. However, based on the approved platted lot layout, the majority of Unit 720 and the surrounding lots lie within the 100 foot buffer. As shown, the proposed structure will intrude 69 feet into the buffer as measured to from the existing bulkhead. The proposed deck is 31 feet from the bulk head, the nearest house corner is 40 feet from the bulk head and the stormwater management trench is 25' from the bulk head. Setbacks on the adjoining lots are similar and have been labeled on the plan for comparison.

RONALD W. JOHNSON ASSOC., INC.

2661 RIVA ROAD
BLDG. 400, STE. 420
ANNAPOLIS, MD 21401

ZONE C

ZONE C

CHURCH CREEK

ZONE C

ZONE C

Poplar Point

ZONE A6
(EL 7)

FLOOD PLAIN

1" = 600'

ZONE A6
(EL 7)

SITE

ZONE B

ZONE A6
(EL 7)

ZONE B
DRIVE

ZONE A6
(EL 7)

CREEK

ZONE B

ZONE C

ORCHARD ROAD

ALMHOUSE

ZONE A6
(EL 7)

SHORE

ZONE C

ZONE A6

ZONE

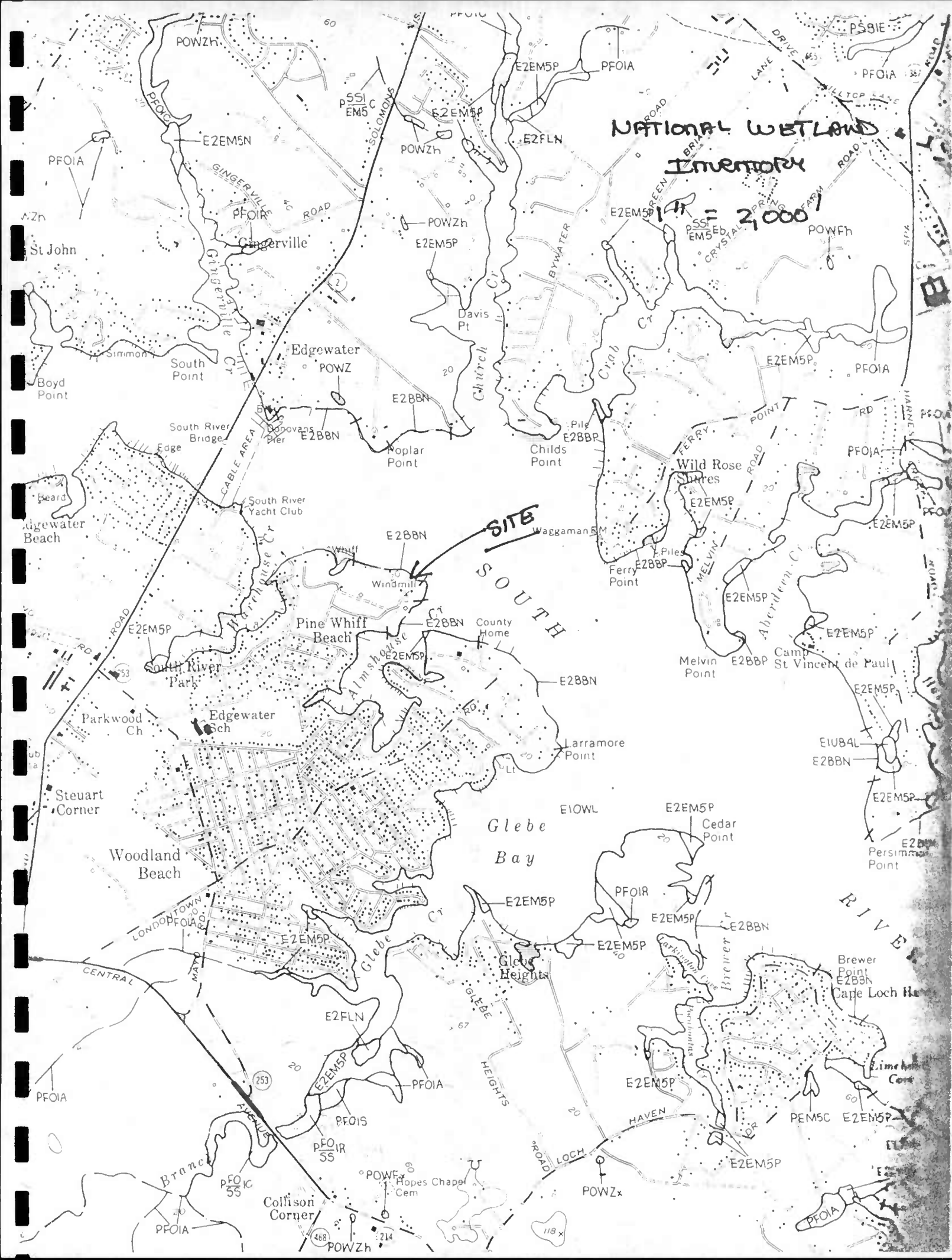
ZONE B

PINE WHITE AVENUE

ROAD

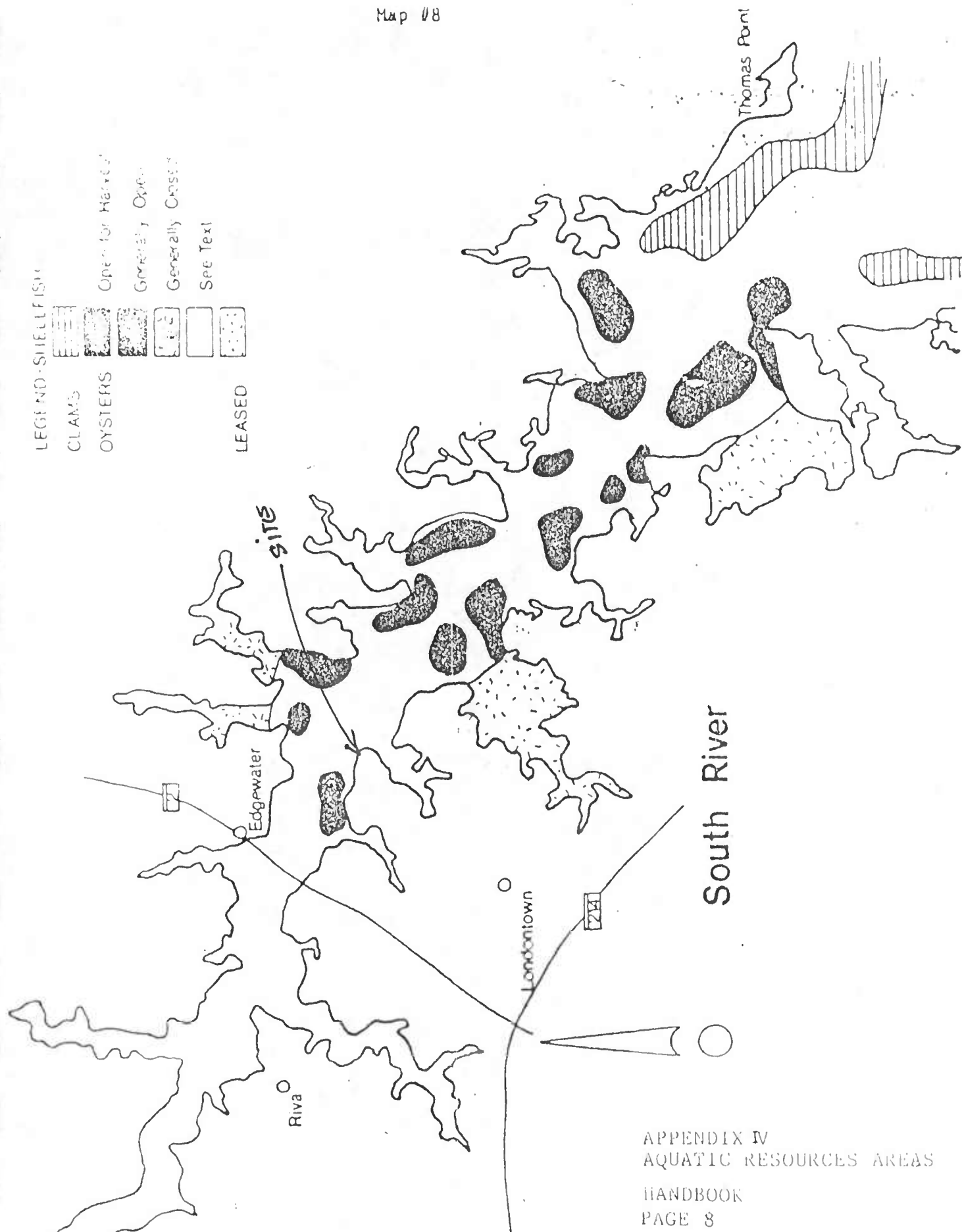
VENTON ROAD

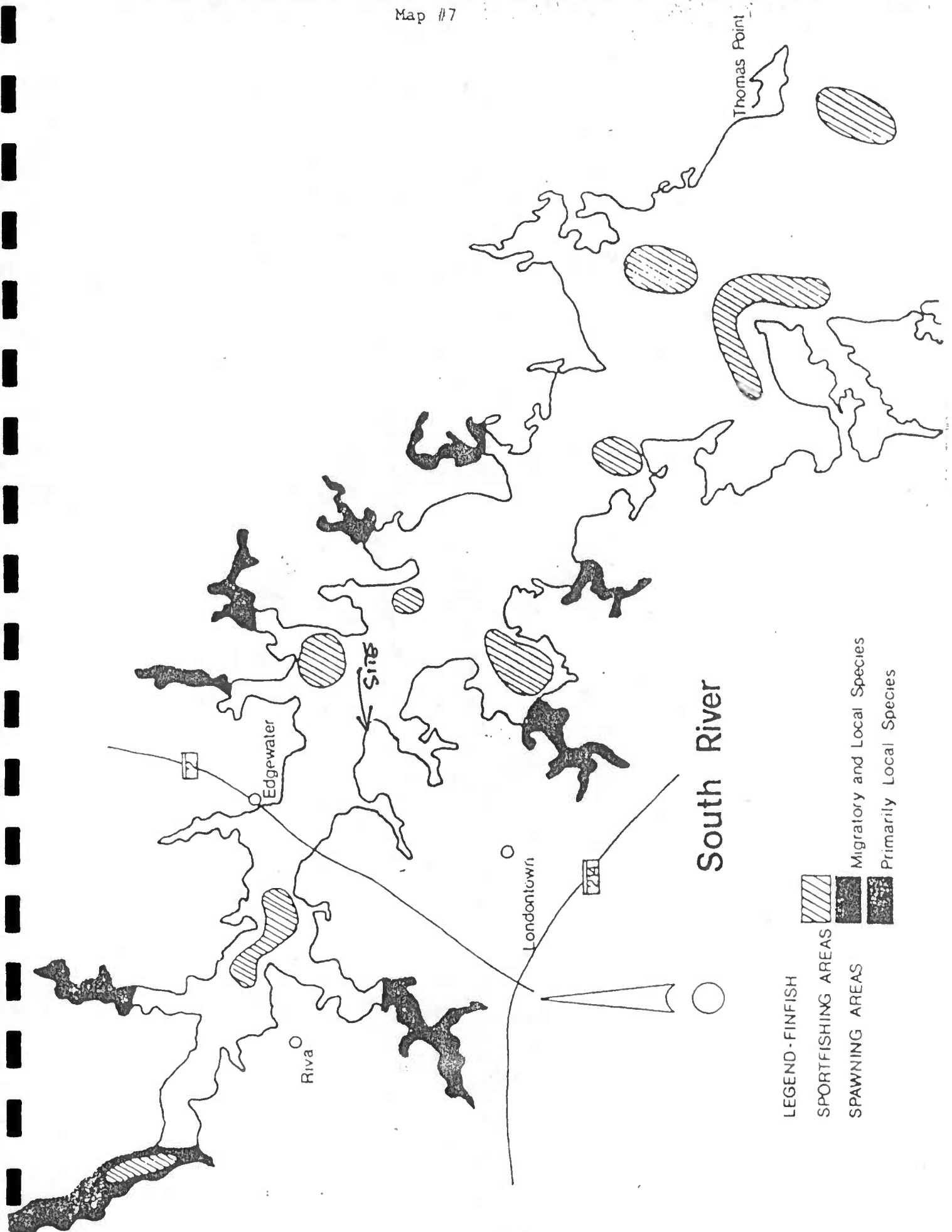
SHORE DRIVE






LEGEND - SHELLFISH

CLAMS	Open for Harvest
OYSTERS	Generally Open
	Generally Closed
	See Text
LEASED	

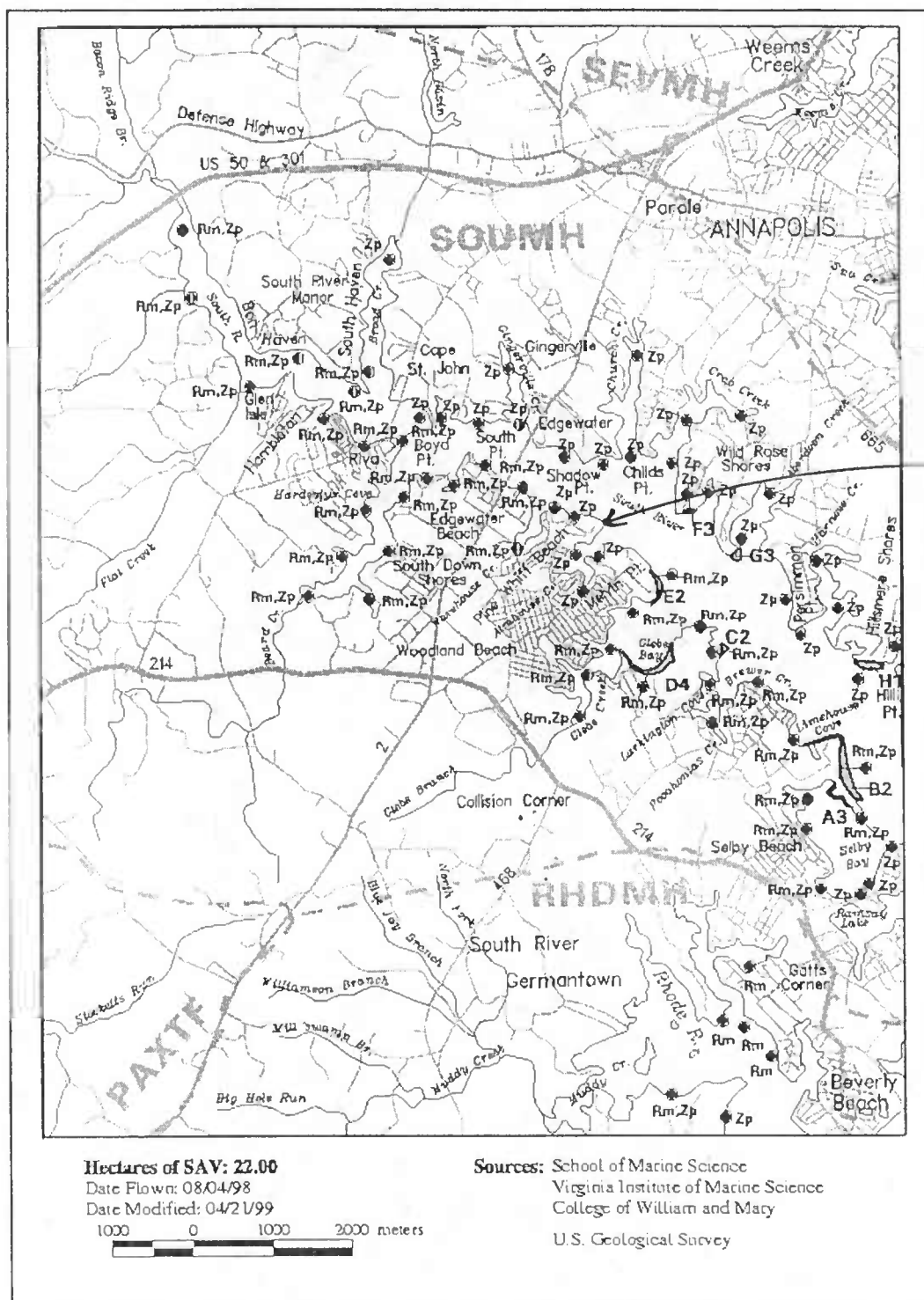




- LEGEND - FINFISH
- | | |
|---|-----------------------------|
|  | SPORTFISHING AREAS |
|  | SPAWNING AREAS |
|  | Migratory and Local Species |
| | Primarily Local Species |

Submerged Aquatic Vegetation 1998

South River, Md. (030) (Preliminary)



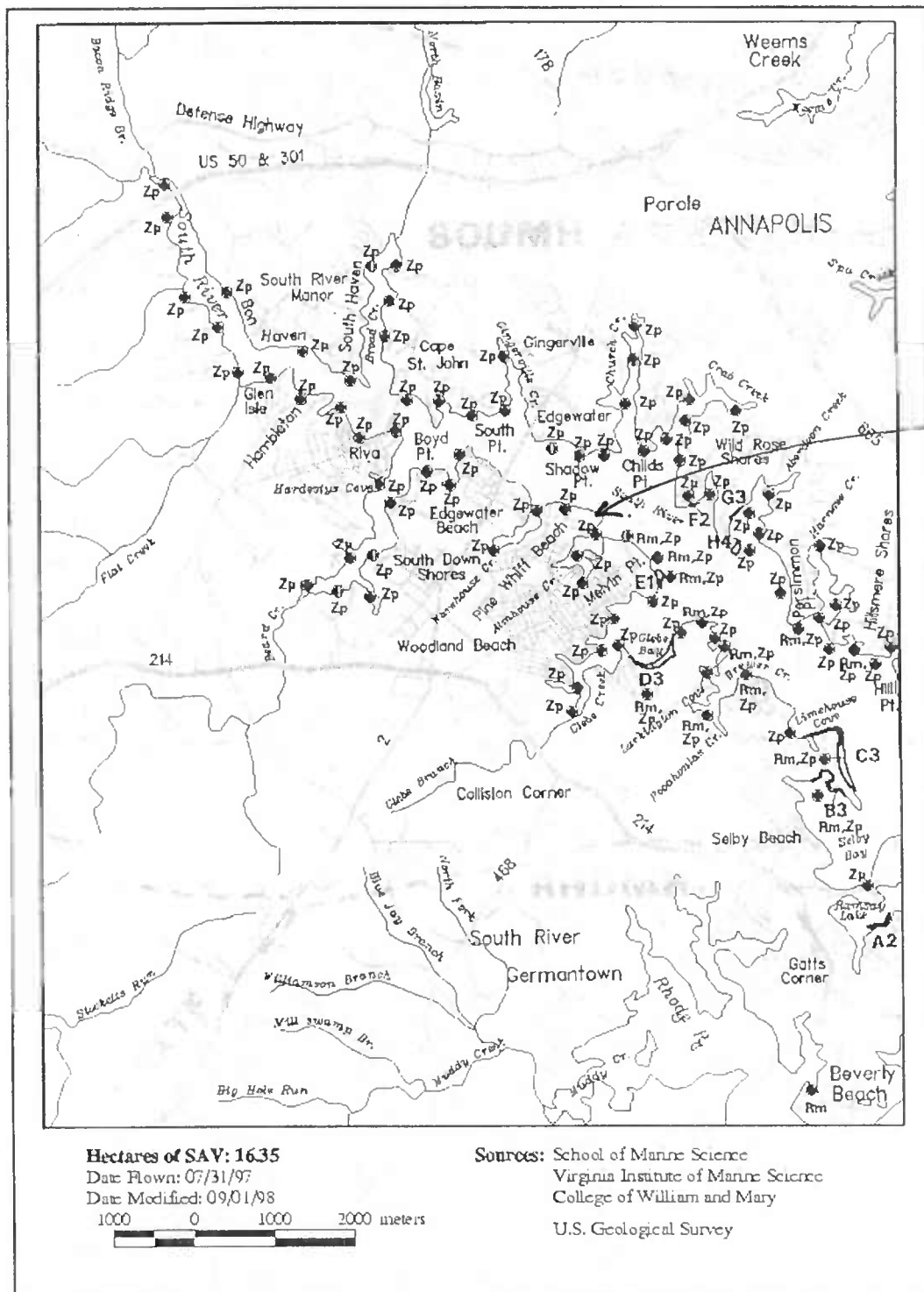
Download printable postscript file in unix compressed or pkzip compressed format.

1997 map, Detailed Map, Quad map key, Contents

VIMS SAV Mapping

Submerged Aquatic Vegetation 1997

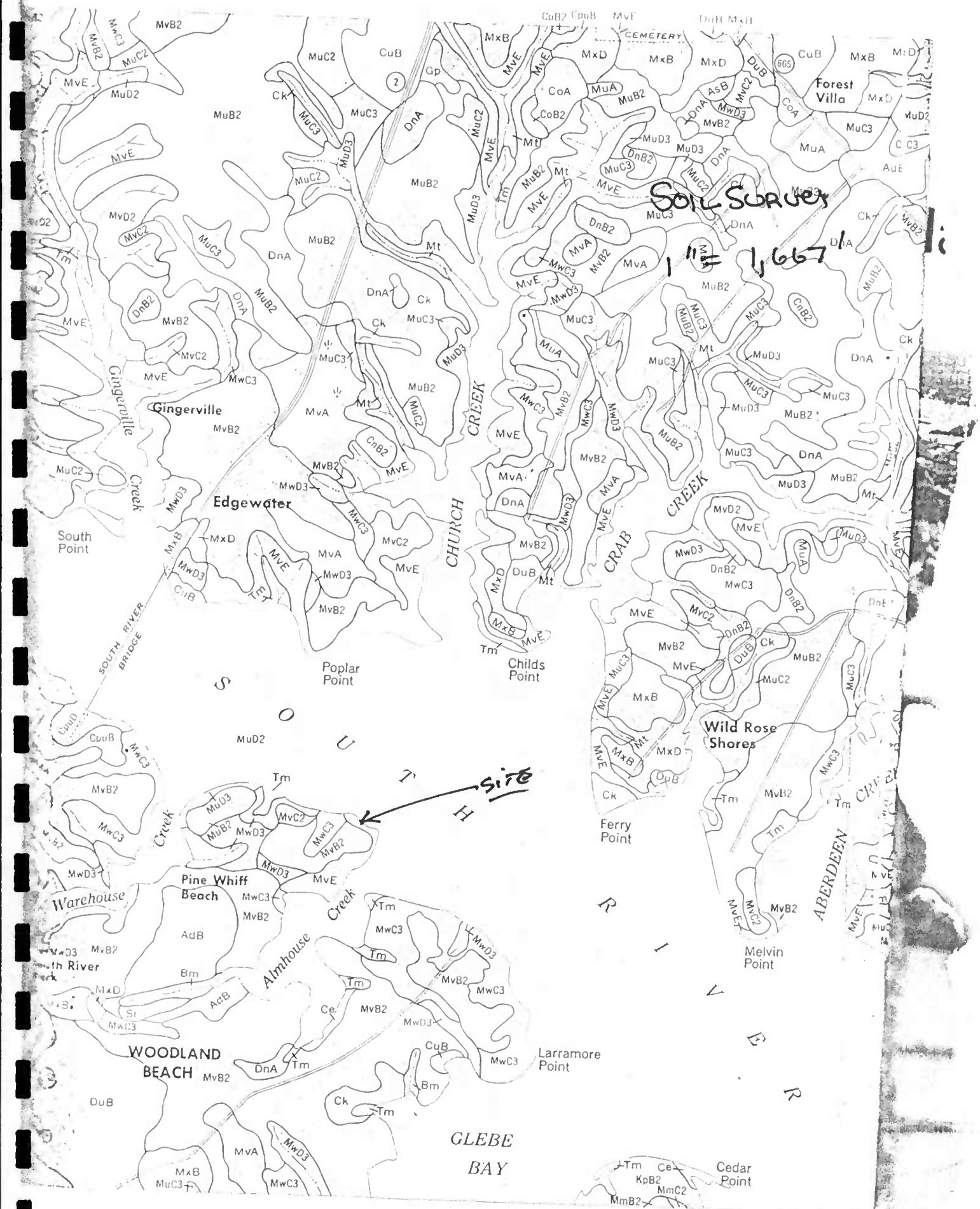
South River, Md. (030) (Preliminary)



Download printable postscript file in unix compressed or pkzip compressed format.

1996 map, Detailed Map, Quad map key, Contents

VIMS SAV Mapping



Environmental Services of
GALE J. REED
Biologist

September 16, 2000

Michael E. Slattery, Director
Wildlife and Heritage Division
Maryland Department of Natural Resources
Forest, Wildlife and Heritage Service
Tawes State Office Building
Annapolis, Maryland 21401

RE: Unit 720, South River Landing
Anne Arundel County

Dear Sir:

I am requesting that your office conduct an environmental review for the property referenced above. This site is an existing lot in a residentially developed community. The construction of a single family home is proposed. I have enclosed three copies of a vicinity map and a site map. Thank you.

Sincerely,

Gale J. Reed
Biologist

BLUMENTHAL, DELAVAN & WILLIAMS, P.A.

ATTORNEYS AT LAW

SUITE 240

176 JENNIFER ROAD

P.O. BOX 6484

ANNAPOLIS, MARYLAND 21401-0484

HARRY C. BLUMENTHAL *
CHARLES F. DELAVAN
SAGER A. WILLIAMS, JR. **
NED BLUMENTHAL†

* ADMITTED IN MD & DC
† ADMITTED IN MD, GA & FL
** AMERICAN INSTITUTE OF
CERTIFIED PLANNERS

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COUNSEL
MICHAEL D. CONNAUGHTON
EILEEN E. POWERS

July 16, 2001

VIA FACSIMILE 410-222-1268

Stephen M. LeGendre, Esq.

Re: Donald Morrisette
Case No. 2000-0419-V

Dear Mr. LeGendre:

I have just received a copy of a July 12, 2001 letter from Mr. Simcox to you, regarding the above-captioned matter. I should like to respond, in summary fashion, to his request for clarification.

1. In the first instance, I find nothing ambiguous in your Order dated February 12, 2001. Paragraph 1 of the Order stated: "The Applicant shall revise the site plan to relocate the dwelling to the 15-foot building restriction line adjacent to the street." There is nothing vague or ambiguous regarding that sentence. The dwelling was to be relocated so as to touch upon the 15-foot building restriction line adjacent to the street.

The clarification of the intent of Mr. & Mrs. Morrisette, which I received from Mr. Simcox by his letter of April 12, 2001, stated that the Morrisettes recognize that no portion of their dwelling, deck or steps can be located closer than 49 feet from the water, but they reserve their rights to meet that set back requirement through a combination of downsizing of the structure. What that meant to me was that if the house was so large that it extended from the 15-foot building restriction line closer to the water than 49 feet, they obviously reserve the right to reduce the length of the house in the rear, to assure compliance with the 49-foot set back requirement.

The site plan recently forwarded to you demonstrates that the house now proposed by the Morrisettes has not been located at the 15-foot building restriction line adjacent to the street, but could be so located.

2. The fifth condition of your Order provided that the Applicant shall provide a buffer planting plan for a 25-foot buffer within the lot, or alternatively, a 20-foot buffer on site with an additional five feet on the common area along the water. Apparently, the

BLUMENTHAL, DELAVAN & WILLIAMS, P.A.

Stephen M. LeGendre, Esq.

July 16, 2001

Page 2

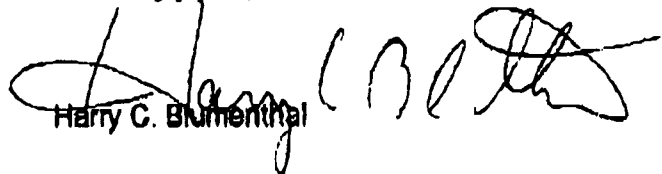
Office of Planning & Zoning has advised the Applicant that the Office of Planning & Zoning considers that planting to be in addition to planting requirements for new impervious surfaces within the buffer and disturbance outside of the buffer. It was my impression that this condition was imposed as part of the *quid pro quo* for the grant of the variance allowing less setbacks and buffer than otherwise required, and also allowing more impervious coverage than otherwise authorized.

The requirement from the Office of Planning & Zoning does not reduce the amount of impervious authorized, but merely requires appropriate plantings (and/or I assume a fee in lieu thereof).

3. Perhaps more important is the consideration as to whether the Code authorizes the Administrative Hearing Officer to "interpret" Orders which are final and unappealable (assuming, *arguendo*, that there is an ambiguity, which I do not believe is present in this case). I have found no statutory authorization to allow the Administrative Hearing Officer (and/or the County Board of Appeals) to reconsider and/or interpret final and unappealable administrative decisions.

When an Applicant pursues a County permit predicated upon authorization given by the Administrative Hearing Officer and/or the Board of Appeals, and when that permit is issued or denied by the County, the appropriate statutory remedy for a party aggrieved by that decision is to file an appeal to the County Board of Appeals. I do not believe that the administrative trier of fact has the statutory authority to adjudicate whether a particular application for permit complies or does not comply with a special exception and/or a variance. That prerogative reposes in the Office of Planning & Zoning, with a statutory appeal process to the County Board of Appeals, as set forth in the County Code.

Sincerely yours,


Harry C. Blumenthal

HCB:mf

cc: John S. Simcox, Esq. (via facsimile 410-266-0813)
Mr. & Mrs. Michael Farren, w/encl. (via facsimile 410-956-8435 & 202-414-1217)
Barnett Q. Brooks & Caroline Popper, w/encl. (via facsimile 410-234-0525)

SIMCOX AND BARCLAY, LLP
ATTORNEYS AT LAW

2861 RIVA ROAD, SUITE 880
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JSSDUB@SIMCOXANDBARCLAY.COM

July 12, 2001

Anne Arundel County
Office of Administrative Hearings
Arundel Center
Annapolis, Maryland 21401

Attn: Stephen M. LeGendre
Administrative Hearing Officer

Re: In re: Donald Morrisette
Case No.: 2000-0419-V
Grading Permit No.: G02008578
Our File No.: 721.01

Dear Mr. LeGendre:

This letter is written to request that you exercise your inherent equitable powers as Administrative Hearing Officer of Anne Arundel County to construe and determine whether my client's, Donald J. Morrisette's, site plan submitted in furtherance of his building permit application comports with your Order of February 12, 2001 (as amended on March 5, 2001) in two key respects. We are making this request because disputes and challenges have arisen at the Permit Application Center that have, to date, kept Mr. Morrisette from obtaining a permit to build a residence on Unit 720 South River Landing Road. In making this request we are mindful that it is not your usual duty to review and approve permits once a variance has been authorized, but in this case your interpretation of two provisions in the variance decision will aid the permit reviewers in determining precisely how the subject site is to be laid out.

A. The Chronology.

First, a brief chronology is in order:

1. On February 12, 2001, the Administrative Hearing Officer issued a Memorandum and Order in Variance Case No. 2000-0419-V. (Exhibit A) In that Memorandum and Order, the Administrative Hearing Officer granted Donald J. Morrisette's variance request, but imposed certain conditions.

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Anne Arundel County
Office of Administrative Hearings
Attn: Stephen M. LeGendre, Administrative Hearing Officer

Page 2
July 12, 2001

2. On February 28, 2001, counsel for Mr. Morrisette wrote to the Administrative Hearing Officer requesting an administrative correction to the Order. (Exhibit B)

3. On March 5, 2001, the Administrative Hearing Officer issued an Amended Order stating, *inter alia*, that,

"the applicant is hereby granted a modified variance to permit a dwelling configured in accordance with the revised site plan 49 feet from the water and a variance to permit up to 40% impervious coverage; in all other respects the Memorandum and Order are unchanged" (Exhibit C)

4. On March 15, 2001, Harry C. Blumenthal, Esquire noted an appeal on behalf of the adjacent property owners, the Farrens and the Brooks. As grounds for the appeal, Mr. Blumenthal stated that the Administrative Hearing Officer's decision was,

"arbitrary and capricious and contrary to the evidence in law, and will result in damage to the property and property values of the Appellants" (Exhibit D)

5. On April 12, 2001, the undersigned wrote to Mr. Blumenthal stating, *inter alia*, that the Morrisettes,

"will abide by the terms of Stephen M. LeGendre's Order dated February 12, 2001, as amended on March 5, and they recognize that this means that no portion of the dwelling, its deck, or its steps can be located closer than 49 feet from the water. They are reserving their right, however, to meet the dictates of the Order through a combination of downsizing the rear deck and stairs, and sliding the dwelling toward the street."

6. Also on April 12, 2001, Mr. Blumenthal sent a letter to the Board of Appeals withdrawing the appeal and transmitting a copy of the undersign's April 12 letter along with the appellants' explanation that because of the "clarification received from John S. Simcox, Esquire, attorney for the applicant, the reasons for the appeal have been resolved." (Exhibit E)

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Anne Arundel County
Office of Administrative Hearings
Attn: Stephen M. LeGendre, Administrative Hearing Officer

Page 3
July 12, 2001

B. The Request For Clarification.

I have also enclosed with this letter a copy of the "Revised Variance Plan" that was submitted by Mr. Morrisette to the Administrative Hearing Officer at the hearing on January 25, 2001. (Exhibit F) As well, I have enclosed a copy of the two-page "Grading, Sediment and Erosion Control Plan" that has been submitted by Mr. Morrisette to the Permit Application Center in furtherance of his application for a grading permit. (Exhibit G)

Two questions have now arisen in connection with the Permit Application Center's review of the permit application. They are reflected in comments submitted to the permit applicant by Mr. Frank W. Ward in his June 8 letter as follows:

1 "In accordance with the approved variance decision, the applicant shall revise the site plan to relocate the dwelling to the 15-foot building restriction line adjacent to the street. Please revise the grading permit accordingly."

It is Mr. Morrisette's contention that the Administrative Hearing Officer's variance decision does not mandate that the dwelling be placed at the 15-foot building restriction line if by a combination of downsizing and reconfiguring, the residence can be positioned no closer than 49 feet from the water. Mr. Morrisette's building permit site plan (Exhibit G) meets the 49 feet requirement. The Administrative Hearing Officer's Memorandum of February 12 states: "When the smoke clears, the major point of contention among the participants is whether to site the dwelling 40 feet from the shore or as much as 49 feet from the shore." The Applicant has satisfied this major point of contention on the grading permit site plan (Exhibit G) by insuring that no portion of the dwelling will be closer than 49 feet from the shore. Moreover, Mr. Morrisette has done so in a way that (i) preserves the Public Works required 10-foot setback between the dwelling and the stormwater management facility (see page 2, Exhibit G), and (ii)

'Although this plan is labeled the "Revised Variance Plan" it is, in fact, the plan submitted to the Administrative Hearing Officer on January 25, 2001. It is termed "Revised" because it replaced the original plan filed with the variance application. While the "Revised Variance Plan" was offered into evidence at the hearing, a second plan, labeled the "alternate" was submitted at the hearing as well and matched the "Revised Variance Plan" in all respects save that it presented a different configuration of the waterside deck. (See, page 2, footnote 1 of the Memorandum and Order.)

SIMCOX AND BARCLAY, LLP

Anne Arundel County
Office of Administrative Hearings
Attn: Stephen M. LeGendre, Administrative Hearing Officer

Page 4
July 12, 2001

aligns the face of the garage on the proposed dwelling with the face of the Farren garage (see page 2, Exhibit G). If the dwelling were moved to the 15-foot building restriction line, then the 10-foot setback between the dwelling and the stormwater management facility could not be met. Moreover, the grading permit site plan proposes impervious coverage of 3,965 ft.² whereas the plan submitted at the hearing called for impervious coverage of 4,200 ft.² (See page 2, Exhibit G; and Exhibit F) Thus, a reduction of 235 ft.² has been achieved.

Donald Morrisette requests, therefore, that the Administrative Hearing Officer clarify and construe the Memorandum and Order by communicating to the Permit Application Center that the dwelling may be sited and configured as is shown on Exhibit G.

2. "In accordance with the approved variance decision, the applicant shall provide a buffer planting plan for a 25-foot buffer within the lot or alternatively, a 20-foot buffer onsite with an additional 5-feet on the common area along the water. Please note that this planting requirement is in addition to the planting requirement for new impervious services within the buffer and disturbance outside the buffer."

This requirement by the Permit Application Center imposes a condition not mandated in the variance decision, namely, that the buffer planting plan be "in addition to the planting requirement for new impervious services within the buffer and disturbance outside the buffer." Although the variance decision does not expressly so state, it is Mr. Morrisette's contention that condition no. 5 in the Order was intended to express a planting requirement that would count toward his code-mandated reforestation. More than 10 lots in South River Landing have applied for and received impervious coverage variances identical to that obtained by Mr. Morrisette in this case, and, to his knowledge, in no prior instance was the planting requirement imposed by the Administrative Hearing Officer read by the permit reviewers as creating an obligation over and above the code-mandated reforestation requirements.

Donald J. Morrisette requests, therefore, that the Administrative Hearing Officer clarify and construe his Order by communicating to the Permit Application Center that the planting plan mandated under condition 5 to the Order count toward the code-mandated reforestation.

SIMCOX AND BARCLAY, LLP

Anne Arundel County

Office of Administrative Hearings

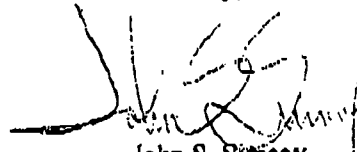
Attn: Stephen M. LeGendre, Administrative Hearing Officer

Page 5

July 12, 2001

We thank you for the time and effort you have devoted to this case and we are confident that with your input on these two remaining points all issues concerning Mr. Morrisette's permit will be resolved, the permit will be issued, and you will not hear about this matter again.

Sincerely,


John S. Simcox

JSS:lc

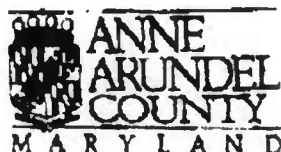
Enclosures

cc: Harry C. Blumenthal, Esquire (w/encl.)

Permit Application Center

Attn: Mr. Frank Ward (w/encl.)

Attn: Mr. Jay Leshinskie (w/o encl.)



OFFICE OF ADMINISTRATIVE HEARINGS
ARUNDEL CENTER
ANNAPOLIS, MARYLAND 21401
410-222-1266

July 23, 2001

John S. Simcox, Esq.
Simcox and Barclay, LLP
2661 Riva Road, Suite 820
Annapolis, MD 21401

Harry C. Blumenthal, Esq.
Blumenthal, Delavan & Williams, P.A.
170 Jennifer Road, Suite 240
Annapolis, MD 21401

Re: Donald Morrisette, Case No. 2000-0419-V

Gentlemen:

I have reviewed Mr. Simcox's letter of July 12, 2001, and Mr. Blumenthal's reply of July 16, 2001. As a general principle, the authority of this office is limited to rendering a written memorandum and revising same within 30 days for clerical or other errors of form. See, Anne Arundel County Code, Article 28, Sections 16-210(a) and 16-211. The decision in this matter is dated February 12, 2001. The Amended Order is dated March 5, 2001. Simply put, there is no possibility of a further revision of the conclusions. Nevertheless, since Mr. Simcox has asked, I will give you the benefit of my thoughts, for whatever, if anything, they are worth. In my view, the decision required substantially the same footprint as the footprint shown on the revised site plan submitted at the January 25, 2001 hearing; said footprint to be relocated to the 15-foot building restriction line adjacent to the street. In this regard, the Order makes reference to "a dwelling configured in accordance with the revised plan . . ." (emphasis supplied). I also note that the decision anticipated "a slight reduction in impervious coverage because the driveway will be nine feet shorter." Opinion at 10. On the matter of the plantings, I agree with Mr. Simcox that the buffer planting plan under Condition 5 should be credited toward the mitigation under Condition 4.

I have copied Messrs. Ward and Leshinskie on this letter. I trust you and they will be able to bring this matter to a conclusion.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Stephen M. LeCendre".
Stephen M. LeCendre
Administrative Hearing Officer

cc: Frank Ward
Jay Leshinskie

Post-It® Fax Note	7671	Date	6/27/01	# of pages	2
To	Harry Blum - H.B.L.	From	Mike Ferrer		
Co./Dept.		Co.			
Phone #	410-573-2900	Phone #	202-414-1285		
Fax #	410-573-2907	Fax #	202-414-1217		

DICK AND I REVIEWED IT
AND MADE NO CHANGES.

LEFT IT AT THE GATE FOR
DON. 6/20

I'll BE AWAY 6/23 - 7/1
SO HE SHOULD GET THESE
DOCUMENTS TO YOU.

THANK YOU FOR A VERY
CLEAR & ACCURATE LIST
FROM OUR MEETING ☺

6/27

Harry,
FYI - This is SARL
Board letter to
Mr. Morrisette.
Mike

June 17, 2001

Dear Mr. Morrisette:

The Architectural Review Committee, Dick Sweeney and I met on June 13 to review the plans you submitted for Unit No. 720. We identified the following issues that you must address prior to any further action:

1. 15' BRL. The site plan does not have the house positioned at the 15 foot building restriction line, as required by the February 12, 2001 variance order, which states that "the Applicant shall revise the site plan to relocate the dwelling to the 15-foot building restriction line adjacent to the street." Please provide verification that the County has approved this placement of the house.
2. House footprint. It appears that the footprint of the house submitted at the January 25, 2001 variance hearing has been altered. The position of the house relative to the 100' tidal buffer remains unchanged and it appears that the garage has been lengthened approximately 6 feet, extending it toward the street. Please provide verification that the County has approved this footprint.
3. Stormwater Management. The variance order requires that you "provide stormwater management," but none is shown on the site plan. Please provide verification that the County has authorized the use of no stormwater management.
4. Deck encroachment. The variance order requires "configuration of the deck to eliminate the encroachment within the 30 feet of the wall for Unit 710 unless the Health Department approves a waiver." Please provide verification that the Health Department has approved such a waiver.
5. Copy of entire site plan. The site plan you submitted to the County contains an additional page of the same size that further explains the plan. Please provide a copy this page and any other materials you have submitted to the County.
6. Heights. Please provide a plan showing the floor to floor heights for the entire house and the total height of the house.
7. Finished materials. Please provide samples of the finished materials for the house, the driveway, and front walkway/entrance.

8. Design issues. Please reconsider the third floor deck. The deck is positioned in close proximity to the master bath and bedroom area of Unit 710 and raises privacy issues. Also, the east side third level window is in close proximity to the master bath of Unit 730; however, it appears that relocating the house to the 15 D.D.T. will eliminate the problem for Unit 730.

624-00

**Leonard Arthur Muller
740 South River Landing
Edgewater, Maryland 20137**

RECEIVED

MAY 17 2002

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

May 13, 2002

Mr. Frank Ward
Permit Application Center
3664 Riva Road, MS
Annapolis, Maryland 21401

RE: Morrisette Property at 720 South River Landing, Edgewater

Dear Mr. Ward:

Thank you for your May 3, 2002 reply to my letter of April 15, 2002 in which I pointed out the inconsistency of your office rescinding the building permit on the subject property on February 28 and reissuing it in early April under a different number. The original rescission was because "the proposed structure will exceed the allowable height limit of 35 feet", followed by a second permit of a different number in early April for the same property with absolutely no change in the conditions, i.e. the proposed building still being in excess of 35 feet height.

Distressingly, your answer was totally unresponsive to my original letter, as was your answer to Ms. LeeAnne Chandler's earlier letter on the same subject, a copy of which you sent to me. You state that your letter to her "should address my concerns". It didn't answer mine and it didn't answer hers.

For example, you state in your letter to Ms. Chandler that "Relocating the proposed dwelling closer to the street increased the amount of grading around the proposed dwelling". This makes no sense. If the house were placed as required by the variance, it would follow the existing grade of the lot. Moving it up the grade has absolutely no effect on the **height** of the house, but only its elevation. You further stated in the same paragraph of your reply to Ms. Chandler that *"This also increased the height of the structure as the dwelling is now located at a higher elevation on the lot than initially proposed."* Frankly Mr. Ward, this logic is consistent with the continual deceptive practices of the permittee and it's builder.

We all know that elevation from sea level has nothing to do with "height" addressed by the county requirements. Height is measured from the ground level. Ground level varies in elevation all over the County. By your definition, a house built on a 34-foot elevation could be only one foot high! In actual fact, the structure as proposed in the set of plans used to obtain the second permit shows a grade deliberately raised around the house by as much as five feet, thereby providing the impression that the house is five feet lower in height than it would be if consistent with the terms of the variance.

I also draw your attention to the last sentence in your letter to Ms. Chandler, which says:

"I would also like to invite you to call me in the future to discuss permit related concerns so we can try to avoid the type of letter you sent me on March 28, 2002."

As a citizen, voter, and taxpayer of Anne Arundel County, I find this a disturbing comment between fellow County officials. As a member of the Chesapeake Bay Critical Area Commission, Ms. Chandler was carrying out her legislated responsibilities in calling to your attention problems in new construction that would affect the State's efforts to protect the Bay. I am not privy to Ms. Chandler's reasons for documenting her concerns to you, but I do know that efforts on my part to call you on the telephone as you suggest to her have met with no response. Every time I have left a message for you by phone Mr. Ward, I have received no answer.

Again, as stated in my earlier letter, I strongly object to the proposed construction on Lot 720, South River Landing, on the grounds that it violates the variance granted by Mr. Stephan M. LeGendre and its height, calculated properly to the required ground level as required in the variance, exceeds the County limits by a significant amount.

Until the concerns expressed by Ms. Chandler, myself and other interested parties are satisfactorily addressed, there should be no further construction on this site. We are all familiar with the practice of raising a structure as far as possible to the point where authorities close their eyes to violations because "the building is already built, and we can't tear it down".

Respectfully,



Leonard A. Muller

Cc: Honorable Janet Owens, Anne Arundel County Executive
Honorable C. Richard D'Amato
Ms. LeeAnne Chandler, Critical Area Commission
Stephan M. LeGendre, Administrative Hearing Officer
Michael Farren, Esq
Marianne Mason, Esq., Assistant Attorney General
Mr. Ren Serey, Executive Director,
Chesapeake Bay Critical Area Commission

**Leonard Arthur Muller
740 South River Landing
Edgewater, Maryland 20137**

June 10, 2002

The Honorable Janet S. Owens
County Executive, Anne Arundel County
Anne Arundel Center
P.O. Box 2700
Annapolis, MD 21404

RECEIVED

JUN 12 2002

**CHESAPEAKE BAY
CRITICAL AREA COMMISSION**

Dear Ms. Owens.

Thank you for your response to my letter of May 16, 2002 to Mr. Frank Ward, of the Permit Application Center, regarding the property at 720 South River Landing. I did expect the courtesy of a reply from Mr. Ward and since I did not receive one, I particularly appreciate your personal interest in writing me directly,

Having myself been the CEO of a Fortune 500 company during my business career, I understand how the pressures of a chief executive can often require the help of subordinates in answering correspondence. Therefore, please understand the following comments are applicable only to the individual who gave you the information you forwarded in your letter.

Examples of incorrect information in the letter are:

1. "Upon resubmission, the plans were checked for consistency between grading permit drawings... before the permit was reissued."

If the plans had been checked accurately and objectively, the department would have recognized that the submission was essentially only consistent with the originally submitted site plan, and, more importantly, was again as misleading as the original submission that was the cause of the earlier rescission of the building permit. In both, the proposed grade is, in some places, 5 feet higher than the original site plan grade with the result that the house will be approximately 39 feet above the original grade, or four feet above the County limit. As pointed out by the June 9th Capital article, the reissued permit "make(s) the illegal legal." Also, arguments that positioning the house closer to the road caused increased height have no bearing.

2. "...a field inspection was conducted at the site to verify that actual conditions reflect those shown in the approved plans (and) ... The inspector was satisfied..."

The actual facts are that, for example, the existing construction has an extension of the foundation completed on the East side, measuring 5 feet by 22 feet, that is not shown on

any approved plan. Another example is an opening for a door to the outside that is also absent from any approved plan. These are but two glaring discrepancies.

However, such discrepancies pale before the environmental problems that will be caused by the violation of the approved variance by greater than approved total impervious area and the excessive runoff that will be caused by the significantly elevated grade planned for the purpose of hiding the excessive height of the house. Again, a noteworthy example of the subject covered by the Capitol in its Sunday article.

Your letter closes with a not so subtle admonition concerning the construction of my own waterfront home, which was built with careful adherence to all regulations (unlike the structure on lot 720) and the comment that "we must also be careful not to infringe upon the rights of citizens to make use of their property within the context of these laws."

I once again enclose a copy of a letter to Mr. Ward from Ms. Chandler of the Chesapeake Bay Critical Area Commission pointing out the egregious violations that have already occurred at one of the same owner's properties at 750 South River Landing. Clearly this same disregard for the environmental rules is again being evidenced at this new construction site. These violations are being defended by the County Permit Department whose primary purpose should be, I believe, to defend and protect the laws, rules and regulations governing construction in this County. *It should not be to protect violators from the complaints of law-abiding citizens, or from the oversight of your office.*

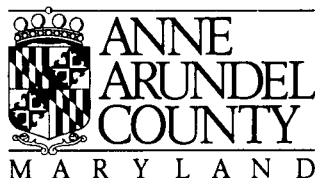
Again, I appreciate your answering for Mr. Ward, understanding how busy you must be. Nevertheless, since you have been so kind as to take a personal interest in this matter, I would greatly appreciate your assigning an objective party to review this matter. At the moment I'm afraid the fox is guarding the hen house.

Respectfully,



Leonard A. Muller

cc: Ms. LeeAnne Chandler, Critical Area Commission
The Honorable Parris N. Glendening
Stephan M. LeGendre, Administrative Hearing Officer
Marianne Mason, Esq., Assistant Attorney General
Mr. Ren Serey, Executive Director, Chesapeake
Bay Critical Area Commission



PERMIT APPLICATION CENTER
2664 RIVA ROAD/HERITAGE OFFICE COMPLEX
ANNAPOLIS, MARYLAND 21401
Annap/Balt (410) 222 - 7700
Washington (301) 970 - 8250
FAX (410) 222 - 7492

April 15, 2002

60-93
644-94
RECEIVED

APR 22 2002

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Ms. LeeAnne Chandler
Chesapeake Bay Critical Area Commission
1804 West Street, Suite 100
Annapolis MD 21401

RE: G02008578 & B02171931
720 South River Landing, Edgewater

Dear Ms. Chandler:

Thank you for your recent letter concerning the above referenced permits. Your interest in the development activities within the County is noted. Your letter has expressed concern with the implementation and enforcement of our local Critical Area Program. Specifically, you are concerned with the enforcement of the variance conditions specified by the County's Administrative Hearing Officer on the aforementioned property.

The County's Administrative Hearing Officer granted variance 2000-0419-V on February 12, 2001. The Order of the approved variance was subsequently amended on March 5, 2001. The approved variance decision allows construction of a dwelling 49 feet from the water and allows up to 40 percent impervious coverage at the above referenced address.

Prior to issuance of the above referenced permits, the applicant was required to address and meet the conditions of the approved variance decision which was subject to the following conditions:

1. The applicant shall revise the site plan to relocate the dwelling to the 15-foot building restriction line adjacent to the street.

{Relocating the proposed dwelling closer to the street increased the amount of grading around the proposed dwelling. This also increased the height of the structure as the dwelling is now located at a higher elevation on the lot than initially proposed. The building permit was rescinded on February 28, 2002. It was revised to reduce the height of the structure to 35 feet as required by the County Code and was reissued on March 28, 2002.}

2. The applicant shall provide stormwater management. The stormwater management shall include collection of the roof leaders on the water-side of the dwelling, unless the applicant demonstrates to the satisfaction of the Permit Application Center and the Health Department that there is no practicable design that will allow collection of the waterside roof leaders.

{An on-site infiltration device was approved by this Office to provide stormwater management for this project.}

3. The applicant shall revise the configuration of the deck to eliminate encroachment within 30 feet of the well for Unit 710 unless the Health Department approves a waiver.

{The proposed deck does not encroach into the 30-foot well setback. The Anne Arundel County Health Department notified this Office on March 8, 2002 that a building foundation had been constructed less than the required thirty (30) feet from an existing water supply well located at Unit 710. On March 28, 2002 the Health Department notified this Office that the requirements of the Health Department were met by removing the foundation that was less than thirty (30) feet to the neighboring water well on the above referenced property.}

4. The applicant shall provide mitigation at a 2:1 ratio for new impervious surfaces within the buffer and at a 1:1 ratio for disturbance outside the buffer.

{This project will add 2,305 square feet of new impervious surface within the 100-foot buffer and have 4,165 square feet of disturbance outside the 100-foot buffer. The project's total mitigation requirement is $(2,305\text{sf} \times 2) + 4,165\text{sf} = 8,775$ square feet.

This site is not large enough to accommodate all the required mitigation plantings on-site. A planting plan to plant 6,560 square feet of native vegetation on-site was approved by this Office. A completed afforestation/reforestation agreement, planting plan and bond ($6,560\text{sf} \times \$0.40/\text{sf} = \$2,624.00$) are on file. The remaining 2,215 square feet of mitigation was provided as a fee-in-lieu planting at a rate of $\$0.60/\text{sf}$ ($2,215\text{sf} \times \$0.60/\text{sf} = \$1,329.00$).}

5. The applicant shall provide a buffer planting plan for a 25-foot buffer within the lot, or alternately, a 20-foot buffer onsite with an additional five feet on the common area along the water.

{As stated in number 4 above, a planting plan to plant 6,560 square feet of native vegetation on-site was approved by this Office. The approved planting plan includes a planted 20-foot buffer on-site with an additional five feet of plantings on the common area along the water.}

Ms. LeeAnne Chandler

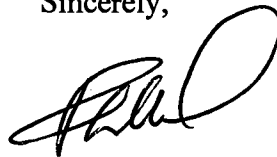
April 15, 2002

Page 3

All the conditions required by the County's Administrative Hearing Officer under variance case number 2000-0419-V were addressed with the aforementioned permits. The subsequent violations have been resolved. One of the neighbors has also appealed the issuance of the building permit (B02171931) to the Anne Arundel County Board of Appeals. A hearing is scheduled for April 29, 2002 to address these same issues.

I hope that this information has clarified what has occurred on this site and how the issues have been addressed. Should you have other questions or wish to discuss this issue or the permitting process further, feel free to contact me at (410)-222-7730. I would also like to invite you to call me in the future to discuss permit related concerns so we can try to avoid the type of letter you sent to me on March 28, 2002.

Sincerely,



Frank W. Ward
Director
Permit Application Center

FWW/WJL

cc: Chron File
John Peacock, I&P
J. Robert Ray, I&P
Robert Walker, Land Use Office

**Leonard Arthur Muller
740 South River Landing
Edgewater, Maryland 20137**

RECEIVED

APR 16 2002

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

April 15, 2002

Mr. Frank Ward
Permit Application Center
3664 Riva Road, MS
Annapolis, Maryland 21401

RE: Morrisette Property at 720 South River Landing, Edgewater

Dear Mr. Ward:

On March 28, 2002, Ms. LeeAnne Chandler of the Maryland Chesapeake Bay Critical Area Commission wrote you concerning this subject. A copy is appended herewith.

Ms. Chandler's letter points out the number of resubmissions of plans for construction on this lot due to discrepancies between the plans and conditions placed on the variance approval. It further emphasizes previous violations of variance conditions by the same owners and builder at this site, at a previously constructed building at 750 South River Landing.

In your letter of February 28, 2002, you informed Mr. Morrisette that building permit B02171931 for Lot 720 had been rescinded because "the proposed structure will exceed the allowable height limit of 35 feet" and further that the permit was issued in error and not in conformance with The Anne Arundel County Code.

On or about April 1, 2002, a building permit and site permit was reissued for construction of this building on the same lot. This site permit seems to closely mirror the site plan of the originally rescinded building permit. It continues the misleading practice of showing a radically increased elevation of the lot around the house, giving the incorrect impression that the house is conforming to the Anne Arundel County height requirement of a maximum of 35 feet.

If the owner intends the lot to be so graded, it will seriously violate the conditions placed on the variance granted by the Administrative Hearing Officer, and further would seemingly aggravate water run off problems into the South River, as well as create a topography that would channel water into the neighbors' garage at 730 South River Landing, much as does the owners present house at 750 South River Landing do to its neighbor, as described in Ms. Chandler's previously referenced letter.

If the Owner does not plan to adhere to this grading plan, as is suggested by the foundation construction already completed at lot 720, wherein the ledge for placement of brick would indicate that a much lower level of grading is actually planned by the owner

and his builder, then, in that case, the building would in fact exceed the county height limits by some 4 to 5 feet. In either case, it would do so in spirit.

For example, an inspection of the site plan for lot 720 shows that the proposed elevation of the property at the location of the front stoop of the proposed house will be 19 feet, 5 feet higher than the present elevation of this lot at the same location. This new elevation would also equal the elevation of the front of the house at 740 South River Landing, creating a deep conduit in which the driveway of the home at lot 730 would sit, channeling water directly into its attached garage.

The writer is at a loss to understand why the original permit was rescinded for this exact reason, that is, a misstatement of the height of the house by deliberately misstating the lot elevation, or violating the variance as the case may be, and has now been re-approved under the same conditions.

I am copying the original recipients of Ms. Chandler's letter as well as the Honorable Janet Owens and the Honorable Richard D'Amato, my Maryland representative, who have acknowledged records of supporting "Save the Bay" environmental programs. It seems to me that we must all put our environment, and especially the Chesapeake Bay, ahead of self-interested material wishes.

Please accept my strongest objections to the proposed construction under such misleading conditions.

Respectfully

A handwritten signature in black ink, appearing to be "T. D'Amato", written over a horizontal line.

Cc: Honorable Janet Owens, Anne Arundel County Executive
Honorable C. Richard D'Amato
Ms. LeeAnne Chandler
Stephan M. LeGendre, Esq.
Michael Farren, Esq.
Marianne Mason, Esq., Assistant Attorney General
Mr. Ren Serey, Executive Director,
Chesapeake Bay Critical Area Commission

Judge John C. North, II
Chairman



Ren Serey
Executive Director

**STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338

March 28, 2002

Mr. Frank Ward
Permit Application Center
3664 Riva Road, MS
Annapolis, Maryland 21401

RE: Morrisette Property at 720 South River Landing, Edgewater

Dear Mr. Ward:

I am writing to inquire about the development activities at 720 South River Landing in Edgewater. This office commented on a variance request for this property in January 2001. Since that time, we have been contacted numerous times by concerned individuals regarding development of the property. These individuals understood that the property was permitted to be developed in accordance with the variance granted by the Administrative Hearing Officer. The concerns came in part from unauthorized activities that occurred at 750 South River Landing, another property owned by the same people. While perhaps a separate issue, these unauthorized activities included construction of patios (in violation of the 40% impervious limit set by a 1993 variance decision) and construction of stone walls and steps within community property, wholly within the Buffer (also in violation of the variance decision). Commission staff contacted the County enforcement office and inquired about these violations. We were told that despite the specific conditions of the variance decision, permits were not needed for those activities and essentially, because some time had passed, there would not be any reparation. However, after we expressed concern about the upcoming development of 720 South River Landing, the inspector reassured us that they would be especially diligent in their subsequent inspections.

Notwithstanding these issues, the property owners applied for grading permits for 720 South River Landing. County staff told us that they had to resubmit their plans two additional times due to discrepancies between their plans and the conditions placed on the variance approval. Most recently, we were contacted again in response to the start of construction. We received plans that indicated there were problems with the building permit related to the fill and grading around the dwelling. In addition, footers were being dug beyond the approved footprint of the dwelling (and into the radius of a neighbor's well). This also is in violation of a specific condition placed on a variance.

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Mr. Frank Ward
March 28, 2002
Page 2

This office is extremely concerned about this situation. We are particularly concerned about the enforcement of conditions placed on variances by the Administrative Hearing Officer. These conditions are often the only means of ensuring that the granting of a variance is consistent with the spirit and intent of the Critical Area Program. We would appreciate your assistance in clarifying what has occurred on this site and how these problems are being addressed.


Thank you for your attention to this matter. I may be reached at (410) 260-3460 if you would like to discuss these matters further.

Sincerely,



LeeAnne Chandler
Natural Resources Planner

Cc: Stephen M. LeGendre, Esq.
Michael Farren, Esq.
Mr. Leonard Muller
Marianne Mason, Esq., Assistant Attorney General
Mr. Ren Serey, Executive Director



MCCRONE

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20 Ridgely Avenue
Annapolis, MD 21401
(410) 267-8621
(410) 269-0531 Baltimore
(301) 261-2605 DC
(410) 267-9932 FAX

Post-It® Fax Note	7671	Date	4/24/02	# of pages	4
To	Lee Anne Chandler	From	Mik. FARREN		
Ca./Dept.	Contract Comm.	Co.			
Phone #	410 260 3460	Phone #	202 414 1285		
Fax #	410 974 5338	Fax #	202 414 1217		

ION SHEET

DATE: 4/24/02 NUMBER OF PAGES
TIME: 1:30 pm / 3:00 pm (including cover sheet) 1

TO: Attention: MICHAEL FARREN, CAROLINE POPPER
Company: _____
Fax Number: (202) 414-1217 - (410) 956-3403

FROM: BURT STEINMAN

RE: Job Name: SOUTH RIVER LANDING #720 (REV)
Job Number: 01020014

MESSAGE: AREAS FOR #720

HOUSE, DRIVEWAY & WALK AS EXISTING = 4387.4

ADDITIONAL WALLED AREA (EAST SIDE) = 105.5 #
(INCLUDED ABOVE)

Propose DECK AREA (1 FLOOR) = 468.7 #

ALLOWABLE PER VARIANCE 40% OF SITE

SITE 10, 547.4 x 40% = 4218.8 #

IF WALLED AREA IS REMOVED HOUSE, DRIVE & WALK =
4281.5 #

C.C. HARRY BLUMENTHAL (410) 513-2909

Information Memo

Information Memo**Date:** 4/23/02**To:** J. Michael Farrow and Ms Caroline Popper**Cc:** Harry Blumenthal**From:** Burton Steinman**RE:** 720 South River Landing

In accordance with your requests we have investigated the building height, wall and grading issues for the revised architectural and site grading plan for the residence at 720 South River Landing.

Based on the interpretation the county uses, and the revised site grading and architectural plan, we have determined the highest portion of the roof falls within the 35-foot height limitation.

Upon a field investigation of the west side of the proposed residence a portion of a foundation footing was removed in order to comply with the health department setback of 30' from a structure. This footing is not shown on the architect's plans; one can only guess the purpose of the footing. A portion of the footing north of the area of footing removal remains; its purpose is support for a brick pier, which in turn supports a 2-story deck.

Drainage along the west property line of 720 appears to adequately direct surface water along the property line and not direct any water toward 710, however the surface drainage ditch that will result appears to be quite a steep grade, as much as a 10% grade, we would suggest that any roof leaders be pipe to discharge below the steep portion of the property.

Investigation of work along the easterly side of the proposed dwelling on 720 found a structural wall under construction seeming an extension of the fireplace. This wall does not appear on the architect's plans and encroaches into the side restriction line by approximately 4 feet. This additional wall extends out 5 feet from the main building wall for a distance of over 20 feet; it will act as a retaining wall and not interfere with the proposed surface drainage ditch at the easterly property line.

Drainage along the east property line of 720 appears to adequately direct surface water along the property line and not direct any water toward 730, however grading should be monitored carefully to insure the surface drainage stays within the proposed ditch where the water course bends to the left at the angle point of the property line.

4/23/2002

Information Memo

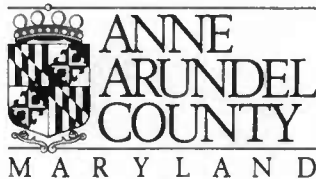
We have contacted Mr. Don Woodrow of the Anne Arundel County Inspection & Permits Department to discuss the wall encroachment on the east side of the property. He indicated an inspector would be sent to the site to investigate the situation. As of this date we have not had an indication of the inspectors determination.

If there are any questions concerning these mater please call.

bis

Attachments

4/23/2002



PERMIT APPLICATION CENTER
2664 RIVA ROAD/HERITAGE OFFICE COMPLEX
ANNAPOLIS, MARYLAND 21401
Annap/Balt (410) 222 - 7700
Washington (301) 970 - 8250
FAX (410) 222 - 7492

April 15, 2002

60-93
611-94
RECEIVED

APR 22 2002

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Ms. LeeAnne Chandler
Chesapeake Bay Critical Area Commission
1804 West Street, Suite 100
Annapolis MD 21401

RE: G02008578 & B02171931
720 South River Landing, Edgewater

Dear Ms. Chandler:

Thank you for your recent letter concerning the above referenced permits. Your interest in the development activities within the County is noted. Your letter has expressed concern with the implementation and enforcement of our local Critical Area Program. Specifically, you are concerned with the enforcement of the variance conditions specified by the County's Administrative Hearing Officer on the aforementioned property.

The County's Administrative Hearing Officer granted variance 2000-0419-V on February 12, 2001. The Order of the approved variance was subsequently amended on March 5, 2001. The approved variance decision allows construction of a dwelling 49 feet from the water and allows up to 40 percent impervious coverage at the above referenced address.

Prior to issuance of the above referenced permits, the applicant was required to address and meet the conditions of the approved variance decision which was subject to the following conditions:

1. The applicant shall revise the site plan to relocate the dwelling to the 15-foot building restriction line adjacent to the street.

{Relocating the proposed dwelling closer to the street increased the amount of grading around the proposed dwelling. This also increased the height of the structure as the dwelling is now located at a higher elevation on the lot than initially proposed. The building permit* was rescinded on February 28, 2002. It was revised to reduce the height of the structure to 35 feet as required by the County Code and was reissued on March 28, 2002.}

* should not have
been issued in the
first place

2. The applicant shall provide stormwater management. The stormwater management shall include collection of the roof leaders on the water-side of the dwelling, unless the applicant demonstrates to the satisfaction of the Permit Application Center and the Health Department that there is no practicable design that will allow collection of the waterside roof leaders.

{An on-site infiltration device was approved by this Office to provide stormwater management for this project.}

3. The applicant shall revise the configuration of the deck to eliminate encroachment within 30 feet of the well for Unit 710 unless the Health Department approves a waiver.

{The proposed deck does not encroach into the 30-foot well setback.* The Anne Arundel County Health Department notified this Office on March 8, 2002 that a building foundation had been constructed less than the required thirty (30) feet from an existing water supply well located at Unit 710.* On March 28, 2002 the Health Department notified this Office that the requirements of the Health Department were met by removing the foundation that was less than thirty (30) feet to the neighboring water well on the above referenced property.}

*This does not
agree w/ grading
plan
* violation*

4. The applicant shall provide mitigation at a 2:1 ratio for new impervious surfaces within the buffer and at a 1:1 ratio for disturbance outside the buffer.

{This project will add 2,305 square feet of new impervious surface within the 100-foot buffer and have 4,165 square feet of disturbance outside the 100-foot buffer. The project's total mitigation requirement is $(2,305\text{sf} \times 2) + 4,165\text{sf} = 8,775$ square feet.

This site is not large enough to accommodate all the required mitigation plantings on-site. A planting plan to plant 6,560 square feet of native vegetation on-site was approved by this Office. A completed afforestation/reforestation agreement, planting plan and bond ($6,560\text{sf} \times \$0.40/\text{sf} = \$2,624.00$) are on file. The remaining 2,215 square feet of mitigation was provided as a fee-in-lieu planting at a rate of $\$0.60/\text{sf}$ ($2,215\text{sf} \times \$0.60/\text{sf} = \$1,329.00$).}

5. The applicant shall provide a buffer planting plan for a 25-foot buffer within the lot, or alternately, a 20-foot buffer onsite with an additional five feet on the common area along the water.

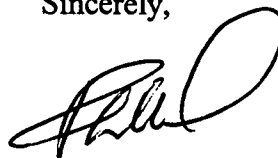
{As stated in number 4 above, a planting plan to plant 6,560 square feet of native vegetation on-site was approved by this Office. The approved planting plan includes a planted 20-foot buffer on-site with an additional five feet of plantings on the common area along the water.}

Ms. LeeAnne Chandler
April 15, 2002
Page 3

All the conditions required by the County's Administrative Hearing Officer under variance case number 2000-0419-V were addressed with the aforementioned permits. The subsequent violations have been resolved. One of the neighbors has also appealed the issuance of the building permit (B02171931) to the Anne Arundel County Board of Appeals. A hearing is scheduled for April 29, 2002 to address these same issues.

I hope that this information has clarified what has occurred on this site and how the issues have been addressed. Should you have other questions or wish to discuss this issue or the permitting process further, feel free to contact me at (410)-222-7730. I would also like to invite you to call me in the future to discuss permit related concerns so we can try to avoid the type of letter you sent to me on March 28, 2002.

Sincerely,



Frank W. Ward
Director
Permit Application Center

FWW/WJL

cc: Chron File
John Peacock, I&P
J. Robert Ray, I&P
Robert Walker, Land Use Office

CHESAPEAKE BAY CRITICAL AREA COMMISSION
1804 West Street, Suite 100
Annapolis, Maryland 21401

FACSIMILE TRANSMITTAL

TO: MR. MIKE FARREN FAX: (202) 414-1217
COMPANY: _____
FROM: LeeAnne Chandler
DATE: 4/23/02 TIME: 8:45 a.m. p.m. NO. PAGES: 4

COMMENTS:

Mr. Farren:

FYI - I received this response from Mr. Ward yesterday. Please take a look and compare with current on-site conditions. I will be reviewing his response in more detail this morning to make sure it is consistent with the variance conditions. If there is anything new going on, please let me know when you have a chance. Thank you.

LeeAnne Chandler

CHESAPEAKE BAY CRITICAL AREA COMMISSION
1804 West Street, Suite 100
Annapolis, Maryland 21401

FACSIMILE TRANSMITTAL

TO: MR. LEN MULLER FAX: (410) 956-6372
COMPANY: _____
FROM: LEEANNE CHANDLER
DATE: 4/23/02 TIME: 8:45 a.m. p.m. NO. PAGES: 4

COMMENTS:

Dear Mr. Muller:

FYI - I received this response from Frank Ward yesterday. I will be reviewing it in detail this morning in comparison to the variance conditions and other information on file. If there is anything new going on, please let me know when you have a chance. Thank you.

Leeanne Chandler

P.S. I also faxed this to

Mike Farren and our attorney, Marianne Mason